

# IDAHO ADMINISTRATIVE BULLETIN

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April 6, 2005 -- Volume 05-4

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# Preface

*The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a monthly compilation of all administrative rule-making documents in Idaho. The Bulletin publishes the official rulemaking notices and administrative rule text of state agency rulemakings and other official documents as necessary.*

*State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Rulemaking Notice published in the Bulletin. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rule-making activities.*

## **CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN**

*The Bulletin is cited by year and issue number. For example, Bulletin **04-1** refers to the first Bulletin issued in calendar year **2004**; Bulletin **05-1** refers to the first Bulletin issued in calendar year **2005**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **04-1** refers to **January** 2004; Volume No. **04-2** refers to **February** 2004; and so forth. Example: The Bulletin published in **January** 2005 is cited as Volume **05-1**. The **December** 2004 Bulletin is cited as Volume **04-12**.*

## **RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE**

*The **Idaho Administrative Code** is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are not printed in the Administrative Code and are published only in the Bulletin.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Rulemaking Index of Idaho Administrative Rules**, printed in each Bulletin.*

## **TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN**

*The state of Idaho administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises five distinct activities: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings involve all five. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of administrative rule.*

## **NEGOTIATED RULEMAKING**

*Negotiated rulemaking is a process in which all interested parties and the agency seek consensus on the content of a rule. Agencies are encouraged, and in some cases required, to engage in this rulemaking activity whenever it is feasible to do so. Publication of a "Notice of Intent to Promulgate - Negotiated Rulemaking" in the Administrative Bulletin by the agency is optional. This process should result in the formulation of a proposed and/or temporary rule.*

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## PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Proposed Rulemaking" in the Bulletin. This notice must include:

- a) the specific statutory authority (from Idaho Code) for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;
- c) the text of the proposed rule prepared in legislative format;
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;
- f) the manner in which persons may request an opportunity for an oral presentation as provided in Section 67-5222, Idaho Code; and
- g) the deadline for public (written) comments on the proposed rule.

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.

## TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) protection of the public health, safety, or welfare; or
- b) compliance with deadlines in amendments to governing law or federal programs; or
- c) conferring a benefit;

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule. However, a temporary rule that imposes a fee or charge may be adopted only if the Governor finds that the fee or charge is necessary to avoid an immediate danger which justifies the imposition of the fee or charge.

A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

State law required that the text of both a proposed rule and a temporary rule be published in the Administrative Bulletin. In cases where the text of the temporary rule is the same as the proposed rule, the rulemaking can be done concurrently as a proposed/temporary rule. Combining the rulemaking allows for a single publication of the text.

An agency may, at any time, rescind a temporary rule that has been adopted and is in effect. If the temporary rule is being replaced by a new temporary rule or if it has been published concurrently with a proposed rulemaking that is being vacated, the agency, in most instances, should rescind the temporary rule.

### **PENDING RULEMAKING**

*A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule.*

*When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Pending Rulemaking". This includes:*

- a) a statement giving the reasons for adopting the rule;*
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) the date the pending rule will become final and effective;*
- d) an identification of any portion of the rule imposing or increasing a fee or charge.*

*Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the "Notice of Pending Rulemaking" is published.*

### **FINAL RULEMAKING**

*A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is in effect and enforceable.*

*No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that an agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution may be adopted to reject the rulemaking or any part thereof. A "Notice of Final Rule" must be published in the Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule that is final and effective may be applied retroactively, as provided in the rule.*

### **AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN**

*The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls, Twin Falls, Lewiston and East Bonner County Library.*

## **SUBSCRIPTIONS AND DISTRIBUTION**

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-00306, telephone (208) 332-1820.

*The Idaho Administrative Bulletin* is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

*The Idaho Administrative Code*, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.

*Individual Rule Chapters* and *Individual Rule Making Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

*Internet Access* - The Administrative Code and Administrative Bulletin are available on the Internet at the following address:

<http://www2.state.id.us/adm/adminrules/>

## **HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN**

Rulemaking documents produced by state agencies and published in the *Idaho Administrative Bulletin* are organized by a numbering system. Each state agency has a two-digit identification code number known as the "**IDAPA**" number. (The "**IDAPA**" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "**TITLE**" number is assigned. There are "**CHAPTER**" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

### **IDAPA 38.07.01.200.02.c.ii.**

"**IDAPA**" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

"**IDAPA 38**" refers to the Idaho Department of Administration

"**05.**" refers to Title 05, which is the Department of Administrations's Division of Purchasing

"**01.**" refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing"

"**200.**" refers to Major Section 200, "Content of the Invitation to Bid"

"**02.**" refers to Subsection 200.02.

"**c.**" refers to Subsection 200.02.c.

"**ii.**" refers to Subsection 200.02.c.ii.

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## DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER." The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0401). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

### "DOCKET NO. 38-0501-0401"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the **TITLE AND CHAPTER** numbers of the agency rule being promulgated; in this case the Division of Purchasing (**TITLE 05**), Rules of the Division of Purchasing (**Chapter 01**).

"0401" denotes the year and sequential order of the docket received during the year; in this case the first rule-making action in calendar year 2004.

Within each Docket, only the affected sections of chapters are printed. (see **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

**"(BREAK IN CONTINUITY OF SECTIONS)"**

## INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection of a rule that is part of the same rule, a typical internal citation may appear as follows:

**"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."**

The citation may also include the IDAPA, Title, or Chapter number, as follows"

**"...in accordance with IDAPA 38.05.01.201..."**

**"38"** denotes the IDAPA number of the agency.

**"05"** denotes the TITLE number of the rule.

**"01"** denotes the Chapter number of the rule.

: **"201"** references the main Section number of the rule that the citation refers to.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

**"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.041, "Rules Governing Capitol Mall Parking."**

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2005**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
05-1	January 2005	<b>*November 19, 2004</b>	January 5, 2005	January 26, 2005
05-2	February 2005	January 5, 2005	February 2, 2005	February 23, 2005
05-3	March 2005	February 2, 2005	March 2, 2005	March 23, 2005
05-4	April 2005	March 2, 2005	April 6, 2005	April 27, 2005
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05-9	September 2005	August 3, 2005	September 7, 2005	September 28, 2005
05-10	October 2005	<b>**August 24, 2005</b>	October 5, 2005	October 26, 2005
05-11	November 2005	October 5, 2005	November 2, 2005	November 23, 2005
05-12	December 2005	November 2, 2005	December 7, 2005	December 28, 2005

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2006**

<b>Vol. No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
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06-3	March 2006	February 1, 2006	March 1, 2006	March 22, 2006
06-4	April 2006	March 1, 2006	April 5, 2006	April 26, 2006
06-5	May 2006	April 5, 2006	May 3, 2006	May 24, 2006
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06-10	October 2006	<b>**August 23, 2006</b>	October 4, 2006	October 25, 2006
06-11	November 2006	October 4, 2006	November 1, 2006	November 22, 2006
06-12	December 2006	November 1, 2006	December 6, 2006	December 27, 2006

***\*Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.***

***\*\*Last day to submit proposed rules in order to complete rulemaking for review by legislature.***

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## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.01.03 - RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL**

**DOCKET NO. 07-0103-0403**

#### **NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This rulemaking action is authorized pursuant to Section 54-1006, Idaho Code.

**HEARING SCHEDULE:** The board will conduct one hearing regarding the negotiated rulemaking. The hearing will be held as follows:

**May 12, 2005 - 7:30 a.m. to 8:30 a.m.  
Red Lion Templin's Hotel, Merganser Room  
414 E. First Avenue, Post Falls, Idaho 83854**

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

**METHOD OF PARTICIPATION:** Persons wishing to participate in the informal negotiated rulemaking must do the following:

1. Oral Comments. Anyone may present oral comments at the time of the hearing. If it becomes necessary, the time available to each individual may be limited and repetitive comments may be restricted.

2. Written Comments. Anyone may submit written comments during this negotiated rulemaking. Written comments may be submitted at the hearings, or must be directed to the undersigned and delivered to the Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642, within five (5) days immediately following the final scheduled hearing of 2005.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The Idaho Electrical Board wishes to solicit public and industry input on a proposed increase in the requirements for an electrical contractor's license. Currently, the rules require the applicant to be a supervising journeyman electrician; the proposed change would require the applicant to be a supervising master electrician.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking, contact Gary Malmen, Electrical Bureau Chief, 208-332-7147.

DATED this 2nd day of March, 2005.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: 208-332-7100  
Fax: 208-855-2164

**IDAPA 07 - DIVISION OF BUILDING SAFETY**

**07.01.06 - RULES GOVERNING THE USE OF NATIONAL ELECTRICAL  
CODE DIVISION OF BUILDING SAFETY**

**DOCKET NO. 07-0106-0501**

**NOTICE OF RULEMAKING - TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2005.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 54-1001 and 54-1006(5), Idaho Code.

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

As authorized by Section 54-1001, Idaho Code, the Idaho Electrical Board has adopted the 2005 Edition of the National Electrical Code (NEC). This edition of the NEC was recently published by the National Fire Protection Association and represents the most current electrical installation standards. By utilizing a July 1, 2005 effective date, the board is providing sufficient time for electrical contractors, journeymen and apprentices to become familiar with any changes that have occurred. In addition, the July 1, 2005 effective date coincides with the effective date being utilized for implementation of the NEC requirements by other Idaho cities and counties as well as reciprocal states. Finally, temporary adoption with a July 1 effective date provides electrical contractors who are in the renewal process sufficient time to obtain the required twenty-four (24) hours of continuing education with respect to the 2005 code changes.

**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:

Adoption of the temporary rule is necessary to protect the public health, safety and welfare by requiring all electrical installations in this state to be made substantially in accord with the most current version of the National Electrical Code (see Section 54-1001, Idaho Code).

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Gary Malmen, Electrical Bureau Chief, at (208) 332-7147.

DATED this 2nd day of March, 2005.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: 208-332-7100  
Fax: 208-855-2164

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**THE FOLLOWING IS THE TEXT OF TEMPORARY RULE ADOPTED  
UNDER DOCKET NO. 07-0106-0501**

**011. ADOPTION AND INCORPORATION BY REFERENCE OF THE NATIONAL ELECTRICAL CODE, 2002~~5~~ EDITION.**

**01. ~~Documents~~ The National Electrical Code, 2005 Edition.** Under the provisions of Section 54-1001, Idaho Code, the National Electrical Code, 2002~~5~~ Edition, (herein NEC) is ~~hereby~~ adopted and incorporated by reference for the state of Idaho and shall be in full force and effect on and after July 1, 2002~~5~~, with the exception of ~~Article 80 and~~ the following: ~~(5-3-03)(7-1-05)T~~

**a.** Compliance with Article 675.8(B) will include the additional requirement that a disconnecting means always be provided at the point of service from the utility no matter where the disconnecting means for the machine is located. (5-3-03)

**b.** Compliance with Article 550.32(B) shall limit installation of a service on a manufactured home to those homes manufactured after January 1, 1992. (5-3-03)

**c.** Compliance with Article 210.12(B) shall not apply to the fire/smoke alarm branch circuit outlet. (5-3-03)

**d.** Poles used as lighting standards that are forty (40) feet or less in nominal height and that support no more than four (4) luminaires operating at a nominal voltage of three hundred (300) volts or less, shall not be considered to constitute a structure as that term is defined by the National Electrical Code (NEC). The disconnecting means shall not be mounted to the pole. The disconnecting means may be permitted elsewhere in accordance with NEC, Article 225.32, exception 3. SEC special purpose fuseable connectors (model SEC 1791-DF or model SEC 1791-SF) or equivalent shall be installed in a listed handhole (underground) enclosure. The enclosure shall be appropriately grounded and bonded per the requirements of the NEC applicable to Article 230-Services. Overcurrent protection shall be provided by a (fast-acting – minimum - 100K RMS Amps 600 VAC) rated fuse. Wiring within the pole for the luminaires shall be protected by supplementary overcurrent device(s) (time-delay – minimum - 10K RMS Amps 600 VAC) in break-a-away fuse holder(s) accessible from the hand hole. Any poles supporting or incorporating utilization equipment or exceeding the prescribed number of luminaires, or in excess of forty (40) feet, shall be considered structures, and an appropriate service disconnecting means shall be required per the NEC. All luminaire-supporting poles shall be appropriately grounded and bonded per the NEC. (8-11-04)T

**02. ~~Availability~~ The National Electrical Code, 2005 Edition.** ~~This document~~ is available at the ~~office of the~~ Division of Building Safety, ~~Electrical Bureau~~ offices located at 1090 E. Watertower St., Meridian, Idaho 83642 and 1250 Ironwood Dr., Ste. 220, Coeur d' Alene, Idaho 83814. ~~(5-3-03)(7-1-05)T~~

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**NOTICE OF NEGOTIATED RULEMAKING ON MEDICAID PROVIDER REIMBURSEMENT**  
**DOCKET NO. 16-0000-0501**  
**NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 39-3305, 56-202(b), 56-1003, and 56-1005, Idaho Code.

**HEARING SCHEDULE:** A public hearing on the negotiated rulemaking will be held on:

**Wednesday, May 11, 2005**  
**1:30 pm to 4:30pm**  
**Division of Medicaid Offices, Conference Room D-East**  
**3232 Elder Street, Boise**

**METHOD OF PARTICIPATION:** Persons wishing to participate in the informal negotiated rulemaking may:

1. Attend the negotiated rulemaking and participate in the negotiation process;
2. Provide oral or written recommendations, or both, at the negotiated rulemaking;
3. Submit written comments to the address below.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Negotiated rulemaking is being initiated to explore alternative service and payment methods in order to address the needs of individuals with significant behavioral issues who are discharged from state institutions, such as State Hospitals and Correctional Facilities into communities. Current concerns include high institutional re-admission rates and high utilization of crisis services and emergency rooms. The resulting rules will define client eligibility, service requirements, expected outcomes, and a reimbursement methodology to encourage successful community integration.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions and for further information concerning this negotiated rulemaking, contact Christine Baylis at (208) 364-1833.

DATED this 3rd day of March, 2005.

Sherri Kovach  
Program Supervisor  
DHW – Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
(208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

## IDAPA 20 - DEPARTMENT OF LANDS

### 20.03.02 - RULES GOVERNING EXPLORATION AND SURFACE MINING IN IDAHO

#### DOCKET NO. 20-0302-0501

#### NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Section 58-104, Idaho Code.

**MEETING SCHEDULE:** The meeting schedule for this rulemaking can be obtained at <http://www.state.id.us/lands> or by contacting the undersigned. Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings.

**DESCRIPTIVE SUMMARY:** The Idaho Department of Lands (IDL) is initiating this rulemaking for the purpose of making revisions to the Rules Governing Exploration and Surface Mining in Idaho in response to Senate Bill 1169 (S1169). S1169 directs IDL and the Department of Environmental Quality (DEQ) to promulgate rules implementing the legislation by August 1, 2005. This rulemaking will be conducted in coordination with DEQ's rulemaking.

This rulemaking will also address any other changes to IDL's Rules Governing Exploration and Surface Mining in Idaho deemed necessary to assure consistency with state and federal law and the efficient operation of a system in permitting exploration and surface mining within the state of Idaho. The issues to be addressed include, but are not limited to, modification and inclusion of definitions, bonding rules, and any applicable permit fees. Mining companies, the Idaho Mining Association, Independent Miners Association, Idaho Department of Environmental Quality, Idaho Conservation League, Idaho Rivers United, associated grass roots environmental and multiple use organizations, and the public at large may be interested in participating in this rulemaking.

Upon conclusion of negotiations, IDL intends to present a rule for temporary adoption in July 2005. If approved, IDL intends to initiate proposed rulemaking by publishing the rule in the August 2005 issue of the Idaho Administrative Bulletin. In order to meet this rulemaking schedule, IDL intends to conclude negotiations by June 2, 2005.

**FEE SUMMARY:** S1169 adds to IDL's responsibilities to review and approve permanent closure plans for new cyanidation facilities or for modifications to existing cyanidation facilities, and to calculate permanent closure bonds for these facilities. Amendments to Section 47-1506(g), Idaho Code, the State Board of Land Commissioners (Board) to require a reasonable fee for reviewing and approving a permanent closure plan, and the fee may include the cost to employ a qualified independent party to verify the accuracy of the cost estimate to complete permanent closure. Amendments to Section 47-1518, Idaho Code, require the Board to promulgate temporary rules by August 1, 2005, to implement the provisions of this act, including the imposition of an appropriate fee that would allow IDL to acquire the professional assistance needed to implement the provisions of S1169. Specialized training and expertise are necessary to effectively perform these functions, and IDL is not currently equipped to perform these functions. Therefore, IDL will seek assistance from the Department of Environmental Quality and qualified consultants to provide the specialized technical and scientific support necessary for permanent closure plan review. These consultations will be necessary to ensure that appropriate measures are in place, prior to approval of a plan, to protect public health, safety, or welfare. IDL anticipates receiving an application submitted with a permanent closure plan for review and approval before the start of the 2006 legislative session, which necessitates promulgation of application fees by the Board in the temporary rules.

**PRELIMINARY DRAFT:** A preliminary draft of the rule can be obtained at <http://www.state.id.us/lands> or by contacting Suzy Cooley at [scooley@idl.state.id.us](mailto:scooley@idl.state.id.us) (208) 334-0243.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rulemaking, contact Sharon Murray at (208) 334-0231 or [smurray@idl.state.id.us](mailto:smurray@idl.state.id.us).

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by April 27, 2005. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft of the negotiated rule, contact the undersigned.

Dated this 11th day of March, 2005.

Suzanne M. Cooley  
Hearing Coordinator  
Idaho Department of Lands  
954 West Jefferson Street  
Boise, Idaho 83702  
(208)334-0243/Fax No. (208)334-2297  
scooley@idl.state.id.us

## **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **58.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**

#### **DOCKET NO. 58-0101-0502**

#### **NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105 and 39-107, Idaho Code.

**MEETING SCHEDULE:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meetings. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Phyllis Heitman at (208) 373-0256 or pheitman@deq.idaho.gov.

**April 12, 2005 and April 13, 2005, 9 a.m. to 5 p.m.**  
**Department of Environmental Quality, Conference Room A**  
**1410 N. Hilton, Boise, Idaho**

**DESCRIPTIVE SUMMARY:** The Independent Dairy Environmental Action League (IDEAL) and the Idaho Conservation League (ICL) have asked the Department of Environmental Quality (DEQ) to initiate a negotiated rulemaking to consider regulation of dairies, based on adoption of threshold numbers of dairy cows.

In this rulemaking DEQ intends to propose that dairies above the threshold numbers of cows be subject to industry best management practices that may be incorporated in a permit by rule, general permit, or some other mechanism.

The text of the rule will be developed by DEQ in conjunction with a negotiating committee made up of persons having an interest in the development of this rule. All dairy facilities and associations may be interested in participating in this rulemaking. Special interest groups, agricultural agencies, public officials, or members of the public who have an interest in the regulation of air emissions from dairy sources in Idaho may also wish to participate in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the September 2005 issue of the Idaho Administrative Bulletin and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in November 2005. The pending rule will be published in the January 2006 issue of the Idaho Administrative Bulletin and will be reviewed by the 2006 Idaho Legislature.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.idaho.gov](http://www.deq.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this negotiated rulemaking, contact Martin Bauer at (208) 373-0440 or mbauer@deq.idaho.gov.

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. For information regarding submission of written comments on drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 11th day of March, 2005.

Paula J. Wilson  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton, Boise, ID 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
pwilson@deq.idaho.gov

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0501

#### NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105, 39-107, and 39-3601 *et seq.*, Idaho Code.

**MEETING SCHEDULE:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Don Essig at (208)373-0119 or [dessig@deq.idaho.gov](mailto:dessig@deq.idaho.gov).

**April 20, 2005, 9 a.m. to 12 noon**  
**Department of Environmental Quality Boise Regional Office Conference Rooms A and B**  
**1445 N. Hilton, Boise, Idaho**  
**(Located Inside the Idaho Public Television Building)**

**DESCRIPTIVE SUMMARY:** In this rulemaking, the Department of Environmental Quality (DEQ) proposes to revert the aquatic life designated use for water body units B-23, B-24, and B-25 (Subsection 160.02) to cold so that the designated use of Soda Creek will be consistent with DEQ's withdrawal of the Soda Creek UAA due to the discovery of aquatic life in Soda Creek. In addition, DEQ proposes the following revisions to Section 003 (Definitions): 1) Add a definition for Zone of Initial Dilution for use in mixing zone analysis; and 2) Revise the definitions of Ephemeral Waters and Intermittent Waters to make it clear that natural flows are the basis for such classifications.

Dischargers of wastewater to Soda Creek and members of the public using Soda Creek for fishing may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2005 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2005.

**PRELIMINARY DRAFT:** A preliminary draft of the rule can be obtained at [http://www.deq.idaho.gov/rules/water/58\\_0102\\_0501\\_negotiated.cfm](http://www.deq.idaho.gov/rules/water/58_0102_0501_negotiated.cfm) or by contacting Paula Wilson at [pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov), (208)373-0418.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.idaho.gov](http://www.deq.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this negotiated rulemaking, contact Don Essig at (208) 373-0119 or [dessig@deq.idaho.gov](mailto:dessig@deq.idaho.gov).

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by April 27, 2005. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 4th day of March, 2005.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton, Boise, ID 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov)

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS

DOCKET NO. 58-0102-0502

#### NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Section 67-5220(1) and 67-5220(2), Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This negotiated rulemaking action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

**MEETING SCHEDULE:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Don Essig at (208)373-0119 or [dessig@deq.idaho.gov](mailto:dessig@deq.idaho.gov).

**April 26, 2005, 9 a.m. to 12 noon**  
**Department of Environmental Quality, Conference Room A**  
**1410 N. Hilton, Boise, Idaho**

**PRELIMINARY DRAFT:** A preliminary draft of the rule can be obtained at [http://www.deq.idaho.gov/rules/water/58\\_0102\\_0502\\_negotiated.cfm](http://www.deq.idaho.gov/rules/water/58_0102_0502_negotiated.cfm) or by contacting Paula Wilson at [pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov), (208)373-0418.

**DESCRIPTIVE SUMMARY:** In this rulemaking, the Department of Environmental Quality (DEQ) proposes to clarify and possibly consolidate language in Sections 080, 251, and 420 regarding E. coli criteria so as to achieve internal consistency and consistency with EPA guidance on bacteria criteria. This change is necessary to avoid misinterpretation of rules regarding ambient bacteria criteria and wastewater disinfection requirements that may result in unnecessarily stringent effluent limits and bacteria load reductions. Publicly owned treatment works (POTWs) and recreational users of Idaho's surface waters may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2005 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2005.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.idaho.gov](http://www.deq.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this negotiated rulemaking, contact Don Essig at (208) 373-0119 or [dessig@deq.idaho.gov](mailto:dessig@deq.idaho.gov).

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by April 27, 2005. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 2nd day of March, 2005.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, Idaho 83706-1255  
(208)373-0418  
Fax No. (208)373-0481  
[pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov)

## **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **58.01.02 - WATER QUALITY STANDARDS AND WASTEWATER TREATMENT REQUIREMENTS**

**DOCKET NO. 58-0102-0503**

#### **NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5220(1) and 67-5220(2), Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105, 39-107, and 39-3601 et seq., Idaho Code.

**MEETING SCHEDULE:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Don Essig at (208)373-0119 or [dessig@deq.idaho.gov](mailto:dessig@deq.idaho.gov).

**April 28, 2005, 9 a.m. to 12 noon**  
**Department of Environmental Quality, Conference Room B**  
**1410 N. Hilton, Boise, Idaho**

**PRELIMINARY DRAFT:** A preliminary draft of the rule can be obtained at [http://www.deq.idaho.gov/rules/water/58\\_0102\\_0503\\_negotiated.cfm](http://www.deq.idaho.gov/rules/water/58_0102_0503_negotiated.cfm) or by contacting Paula Wilson at [pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov), (208)373-0418.

**DESCRIPTIVE SUMMARY:** The purpose of this rulemaking is to bring Idaho's toxics criteria up to date with current science and recommendations of the EPA. The Department of Environmental Quality (DEQ) proposes to revise the HH criteria (columns C1 & C2) to account for revised fish consumption rates and other EPA updates in Section 210; to adopt an Idaho specific cadmium chronic aquatic life criterion based on recalculation using recent, Idaho specific toxicity data; and to revise the HH As criterion to reflect the recent downward revision in the drinking water maximum contaminant level. Everyone in Idaho who either discharges toxics listed in Section 210 to surface waters of Idaho, or those who recreate in or obtain their drinking water from surface waters of Idaho, may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in the summer of 2005 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in the fall of 2005.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.idaho.gov](http://www.deq.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this negotiated rulemaking, contact Don Essig at (208) 373-0119 or [dessig@deq.idaho.gov](mailto:dessig@deq.idaho.gov).

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by April 27, 2005. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 2nd day of March, 2005.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton, Boise, ID 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov)

## **IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **58.01.11 - GROUND WATER QUALITY RULE**

**DOCKET NO. 58-0111-0501**

#### **NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, and IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality, Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Sections 39-105, 39-107, 39-120 and 39-126, Idaho Code.

**MEETING SCHEDULE:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Edward Hagan at (208)373-0356 or ehagan@deq.idaho.gov.

**May 5, 2005, 9 a.m. to 12 noon**  
**Department of Environmental Quality, Conference Room D**  
**1410 N. Hilton, Boise, Idaho**

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) is initiating this rulemaking for the purpose of making the Ground Water Quality Rule consistent with the federal drinking water regulations designed to protect human health. The issues to be addressed include:

- 1) Changing numerical standard for arsenic from 0.05 mg/l to 0.01 mg/l;
- 2) Adding numerical standard for uranium as 0.03 mg/l, CAS # 7440-61-1; and
- 3) Adding numerical standard for Giardia 1 cyst/10 liters and Cryptosporidium 1 oocyst/10 liters.

In addition, DEQ intends to remove the reference to Subsection 200.01.c. from Subsection 400.02.a.iii. The reference to Subsection 200.01.c. is no longer correct due to revisions made to Section 200 in 2003. Domestic well owners and the public at large may be interested in this rulemaking.

Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in July 2005 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in October 2005.

**PRELIMINARY DRAFT:** A preliminary draft of the rule can be obtained at [http://www.deq.idaho.gov/rules/groundwater/58\\_0111\\_0501\\_negotiated.cfm](http://www.deq.idaho.gov/rules/groundwater/58_0111_0501_negotiated.cfm) or by contacting Paula Wilson at [pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov), (208)373-0418.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.idaho.gov](http://www.deq.idaho.gov).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this negotiated rulemaking, contact Edward Hagan at (208) 373-0356 or [ehagan@deq.idaho.gov](mailto:ehagan@deq.idaho.gov).

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by April 27, 2005. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 8th day of March, 2005.

Paula J. Wilson, Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton, Boise, ID 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov)

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.13 - RULES FOR ORE PROCESSING BY CYANIDATION

DOCKET NO. 58-0113-0501

#### NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapter 1, Title 39, Idaho Code.

**MEETING SCHEDULE:** The meeting schedule for this rulemaking can be obtained at [http://www.deq.idaho.gov/rules/cyanidation/58\\_0113\\_0501\\_negotiated.cfm](http://www.deq.idaho.gov/rules/cyanidation/58_0113_0501_negotiated.cfm) or by contacting the undersigned. Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings.

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) is initiating this rulemaking for the purpose of making revisions to the Rules for Ore Processing by Cyanidation in response to Senate Bill 1169 and in response to the Idaho Conservation League's Petition for Initiation of Rulemaking filed with the Board of Environmental Quality (Board). Senate Bill 1169 directs DEQ and the Idaho Department of Lands (IDL) to promulgate rules implementing the legislation by August 1, 2005. This rulemaking will be conducted in coordination with IDL's rulemaking.

This rulemaking will also address any other changes to DEQ's Rules for Ore Processing by Cyanidation deemed necessary to assure consistency with state and federal law and the efficient operation of a system for permitting ore processing by cyanidation within the state of Idaho. The issues to be addressed include, but are not limited to, an increase fees associated with the permitting process. Idaho Mining Association, Independent Miners Association, Idaho Department of Lands, Idaho Conservation League, Idaho Rivers United, associated grass roots environmental and multiple use organizations, and the public at large may be interested in participating in this rulemaking.

Upon conclusion of negotiations, DEQ intends to present a rule to the Board for temporary adoption in June 2005. If approved by the Board, DEQ intends to initiate proposed rulemaking by publishing the rule in the August 2005 issue of the Idaho Administrative Bulletin. In order to meet this rulemaking schedule, DEQ intends to conclude negotiations by June 2, 2005.

**PRELIMINARY DRAFT:** The preliminary draft rule can be obtained at [http://www.deq.idaho.gov/rules/cyanidation/58\\_0113\\_0501\\_negotiated.cfm](http://www.deq.idaho.gov/rules/cyanidation/58_0113_0501_negotiated.cfm) or by contacting the undersigned.

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this negotiated rulemaking, contact John Lawson at (208)373-0141 or [jlawson@deq.idaho.gov](mailto:jlawson@deq.idaho.gov).

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by April 27, 2005. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 8th day of March, 2005.

Paula J. Wilson  
Hearing Coordinator  
Department of Environmental Quality  
1410 N. Hilton  
Boise, ID 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov)

## IDAPA 58 - DEPARTMENT OF ENVIRONMENTAL QUALITY

### 58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES

DOCKET NO. 58-0117-0501

#### NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, and IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Sections 810 through 815, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Title 39, Chapter 1, Idaho Code.

**MEETING SCHEDULE:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Mark Mason at (208)373-0266 or mmason@deq.idaho.gov.

**May 26, 2005, 8 a.m. to 5 p.m.**  
**Department of Environmental Quality**  
**Conference Rooms B and C**  
**1410 N. Hilton, Boise, Idaho**

**DESCRIPTIVE SUMMARY:** The Department of Environmental Quality (DEQ) has initiated this rulemaking to modify and clarify existing water quality limits and other requirements for the various classes of municipal reclaimed wastewater, to add and clarify various definitions, to change the name of the rules from "Wastewater Land Application Rules" to "Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater," and to make various changes in the rules associated with this name change. This rulemaking is necessary because DEQ has determined that the existing water quality limits and other requirements for Class A and Class B reclaimed wastewater may be too strict. Idaho Association of Commerce and Industry, Idaho Association of Cities, consulting engineers, existing and potential permittees, and the development community may be interested in this rulemaking.

Upon conclusion of negotiations, DEQ intends to present a rule to the Board of Environmental Quality (Board) for temporary adoption in the fall of 2005. If adopted by the Board, DEQ will then publish the temporary rule and initiate proposed rulemaking.

**PRELIMINARY DRAFT:** By April 18, 2005, the preliminary draft rule can be obtained at [http://www.deq.idaho.gov/rules/waste\\_water/58\\_0117\\_0501\\_negotiated.cfm](http://www.deq.idaho.gov/rules/waste_water/58_0117_0501_negotiated.cfm) or by contacting Paula Wilson at [pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov), (208)373-0418.

**GENERAL INFORMATION:** For more information about DEQ's programs and activities, visit DEQ's web site at [www.deq.state.id.us](http://www.deq.state.id.us).

**ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning this negotiated rulemaking, contact Mark Mason at (208)373-0266 or [mmason@deq.idaho.gov](mailto:mmason@deq.idaho.gov).

Anyone may submit written comments during this negotiated rulemaking by mail, fax or e-mail at the address below. Written comments on the preliminary draft must be received by May 16, 2005. For information regarding submission of written comments on subsequent drafts of the negotiated rule, and to receive the most recent version of the draft negotiated rule, contact the undersigned.

Dated this 8th day of March, 2005.

Paula J. Wilson  
Environmental Quality Section  
Attorney General's Office  
1410 N. Hilton, Boise, ID 83706-1255  
(208)373-0418/Fax No. (208)373-0481  
[pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov)

**IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM (PERSI)**

**59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE  
RETIREMENT SYSTEM OF IDAHO (PERSI)**

**DOCKET NO. 59-0103-0501**

**NOTICE OF RULEMAKING - TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rules is June 30, 2005.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

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

Idaho Code section 59-1322(1) requires the Retirement Board (Board) to establish contribution rates to adequately fund the retirement system, subject to certain requirements. In 2003, the Board adopted proposed rules that provided for a series of three annual contribution rate increases beginning July 1, 2004, through July 1, 2006. The first of those increases has gone into effect, but favorable market conditions over the last two years have significantly improved the funding status of the plan. The Board has determined that at this time the two additional increases scheduled for July 1, 2005 and July 1, 2006, can each be postponed one year. The Board will continue to monitor funding and market conditions and will take addition action as appropriate. New rates apply to the first pay period beginning on or after the applicable date.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rules is appropriate for the following reasons: This rule change will confer a benefit on PERSI employees and employers.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 2nd day of March, 2005.

Alan H. Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8<sup>th</sup> St.  
Boise, ID 83702  
P.O. Box 83720  
Boise, ID 83720-0078  
Phone: 208-334-3365  
FAX: 208-334-3804

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**THE FOLLOWING IS TEXT OF DOCKET NO. 59-0103-0501**

**026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (RULE 26).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll through June 30, 200~~56~~. Beginning July 1, 200~~56~~, the rate shall be eleven percent (11.00%) of payroll through June 30, 200~~67~~. Beginning July 1, 200~~67~~, the rate shall be eleven point sixty-one percent (11.61%) of payroll until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (~~Amended 3-20-04~~) (6-30-05)T

**027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (RULE 27).**

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

**01. Option I And II Firefighters.** For option I and II firefighters hired before October 1, 1980, as follows:

<b>Option I And II Firefighters</b>	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 200 <del>56</del> . Beginning July 1, 200 <del>56</del> , the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 200 <del>67</del> . Beginning July 1, 200 <del>67</del> , the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Thirty-six percent (36%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be thirty-six point sixty-two percent (36.62%) of payroll through June 30, 200 <del>56</del> . Beginning July 1, 200 <del>56</del> , the rate shall be thirty-seven point twenty-three percent (37.23%) of payroll through June 30, 200 <del>67</del> . Beginning July 1, 200 <del>67</del> , the rate shall be thirty-seven point eighty-four percent (37.84%) of payroll until next determined by the Board.

~~(3-20-04)~~(6-30-05)T

**02. Class D Firefighters.** For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund), as follows:

<b>Class D Firefighters</b>	
PERSI Employer Contribution Rate:	Ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 200 <del>56</del> . Beginning July 1, 200 <del>56</del> , the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 200 <del>67</del> . Beginning July 1, 200 <del>67</del> , the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.

<b>Class D Firefighters</b>	
TOTAL Contribution:	Twenty-seven point thirty-five percent (27.35%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be twenty-seven point ninety-seven percent (27.97%) of payroll through June 30, 200 <del>5</del> <u>6</u> . Beginning July 1, 200 <del>5</del> <u>6</u> , the rate shall be twenty-eight point fifty-eight percent (28.58%) of payroll through June 30, 200 <del>6</del> <u>7</u> . Beginning July 1, 200 <del>6</del> <u>7</u> , the rate shall be twenty-nine point nineteen percent (29.19%) of payroll until next determined by the Board.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) (~~3-20-04~~)(6-30-05)T

**03. Class E Members.** For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 26, plus the excess merger costs specified in Subsection 027.01. (3-20-04)

**028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (RULE 28).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 200~~5~~6. Beginning July 1, 200~~5~~6, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 200~~6~~7. Beginning July 1, 200~~6~~7, the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) (~~3-20-04~~)(6-30-05)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (RULE 100).**

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary through June 30, 200~~5~~6. Beginning July 1, 200~~5~~6, the rate shall be six point sixty percent (6.60%) of salary through June 30, 200~~6~~7. Beginning July 1, 200~~6~~7, the rate shall be six point ninety-seven percent (6.97%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (~~3-20-04~~)(6-30-05)T

**101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (RULE 101).**

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary through June 30, 200~~5~~6. Beginning July 1, 200~~5~~6, the rate shall be eight point zero-nine percent (8.09%) of salary through June 30, 200~~6~~7. Beginning July 1, 200~~6~~7, the rate shall be eight point fifty-three percent (8.53%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) (~~3-20-04~~)(6-30-05)T

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# LEGAL NOTICE

## Summary of Proposed Rulemakings

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### **PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES**

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

**Because of the moratorium on proposed rulemaking during the legislative session, there are no proposed rules being promulgated or published in this month's Bulletin.**

Please refer to the Idaho Administrative Bulletin, **April 6, 2005, Volume 05-4** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

**Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.**

Copies of the Administrative Bulletin and other rules publications are available for purchase. For subscription information and ordering call (208) 332-1820 or write the Office of the Administrative Rules Coordinator, Department of Administration, 650 W. State St., Room 100, Boise, Idaho 83720. Visa and Mastercard accepted on purchases over \$50.

The Idaho Administrative Bulletin and Administrative Code are available on the Internet at the following address: <http://www2.state.id.us/adm/adminrules/>

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

**FOR THE ABOVE LINK TO WORK YOU HAVE  
TO BE CONNECTED TO THE INTERNET**

**This index tracks the history of all agency rulemakings from 1993 to the present.  
It includes all rulemaking activities on each chapter of rules  
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