

# IDAHO ADMINISTRATIVE BULLETIN

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June 1, 2005 -- Volume 05-6

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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 02-1 refers to the first Bulletin issued in calendar year 2002; Bulletin 03-1 refers to the first Bulletin issued in calendar year 2003. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 02-1 refers to January 2002; Volume No. 03-2 refers to February 2003; and so forth. Example: The Bulletin published in January of 2003 is cited as Volume 03-1. The December 2002 Bulletin is cited as Volume 02-12.*

## **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 Index of Administrative RuleMaking**, 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" a rule 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 become 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 RuleMaking 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.*

## 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
05-5	May 2005	April 1, 2005	May 4, 2005	May 25, 2005
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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>
06-1	January 2006	<b>*November 16, 2005</b>	January 4, 2006	January 25, 2006
06-2	February 2006	January 4, 2006	February 1, 2006	February 22, 2006
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
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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 02 - DEPARTMENT OF AGRICULTURE**

**02.06.06 - RULES GOVERNING THE PLANTING OF BEANS, (*PHASEOLUS SSP.*), IN IDAHO**

**DOCKET NO. 02-0606-0501**

**NOTICE OF RULEMAKING - TEMPORARY RULE**

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

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

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

There is less farm ground in Idaho being irrigated under rill irrigation as more is being converted to sprinkler irrigation. The current rules for the planting of kidney and garden beans require a two year history of rill irrigation planting in Idaho prior to a planting under sprinkler irrigation. The proposed changes are to amend IDAPA 02.06.06 Section 200.09.b. to read "All other beans" and eliminate Section 200.09.c. due to the constraints of the planting irrigation history requirement of two years under rill irrigation prior to a planting of one year under sprinkler irrigation. Also, a requirement for serology testing after the planting under sprinkler irrigation will be added.

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

The temporary change confers a benefit to the Idaho Bean Seed Industry. Unless the rule is amended, Idaho could lose much of its bean seed business.

**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:

There is no fee or charge being imposed or increased through this temporary rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary rule, contact Michael E. Cooper, Bureau Chief at (208) 332-8620 or Garry West, Program Manager at (208) 736-2195.

DATED this 19th day of April, 2005.

Mike Everett  
Deputy Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8503  
Fax: (208) 334-2170

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 02-0606-0501**

**200. REQUIREMENTS FOR PLANTING BEAN SEED IN IDAHO.**

In order to be eligible for planting bean seed in Idaho: (4-2-03)

**01. Idaho Grown Seed.** Seeds planted must be from a lot that has an in-state planting tag number (state number) assigned by the Department based on growing season and windrow inspections and be tagged by the Department with a Department In-State Planting Tag (Green tag) or be tagged by the ICIA in accordance with these rules. (4-2-03)

**02. Malheur County, Oregon Grown Seed.** Bean seed produced in Malheur County, Oregon must be from a lot inspected in the growing season and in the windrow for the regulated pests as defined in Section 012 of these rules and tagged by the Oregon Department of Agriculture. (4-2-03)

**03. Imported Seed Grown West of the Continental Divide in the Contiguous United States.** Imported bean seed grown west of the Continental Divide in the contiguous United States must: (4-2-03)

**a.** Be accompanied by a phytosanitary certificate issued by the regulatory agency of the state of origin, listing the diseases for which the crop was inspected, that must include the regulated pests as defined in Section 012 of these rules, and stating that the crop was field and windrow inspected; (4-2-03)

**b.** Seed lot shall successfully pass laboratory tests conducted by the Department from samples officially drawn in the state of Idaho by the Department; (4-2-03)

**c.** Must bear a Department approved tag (yellow); (4-2-03)

**d.** Shall not be planted under sprinkler irrigation; and (4-2-03)

**e.** Each field planted in Idaho must be submitted for field and windrow inspections. (4-2-03)

**04. Imported Seed Grown East of the Continental Divide in the Contiguous United States or of Foreign Origin.** Imported bean seed grown east of the Continental Divide in the Contiguous United States or of foreign origin to be planted in Idaho shall be planted only on an approved trial ground as outlined in Section 250. (4-2-03)

**05. Idaho Grown Seeds Shipped East of the Continental Divide in the Contiguous United States or to a foreign Country and Returned.** Bean seeds shipped east of the Continental Divide in the contiguous United States or to a foreign country may be returned to Idaho but upon return shall be planted on an approved trial ground as outlined in Section 250. (4-2-03)

**06. Contaminated Seeds.** The seeds from any bean field found or known to be contaminated with a regulated pest, as defined in Section 012 of these rules, shall not be planted in Idaho. (4-2-03)

**07. True Identity of Seed Lots.** Failure to maintain the true identity of any seed lot intended for seed purposes will automatically disqualify that lot for future planting in Idaho. (4-2-03)

**08. Tags.** Bean seeds planted in Idaho shall be from an approved lot bearing an approved tag on each bag or container, stating the kind, variety, and lot number. The following is a list of approved planting tags in Idaho: (4-2-03)

**a.** Department in-state planting tag (green tag); (4-2-03)

**b.** Department approved tag (yellow tag); (4-2-03)

**c.** ICIA tag, provided the lot was field and windrow inspected by ICIA in accordance to these rules; or (4-2-03)

**d.** Oregon Department of Agriculture inspection tag. (4-2-03)

- 09. Irrigation.** (4-2-03)
- beans:
- a.** Pintos, Red Mexicans, Pinks, Great Northerns, Small Whites, Navy Beans, Black Turtles, and Lima (4-2-03)
- i. First generation of seed grown in Idaho must be grown and inspected under rill irrigation. (4-2-03)
- ii. Thereafter, the seed may be grown and inspected for two (2) consecutive generations in Idaho under sprinkler irrigation. (4-2-03)
- iii. Seed grown under sprinkler irrigation for two (2) consecutive generations shall then be grown and inspected for one (1) generation in Idaho under rill irrigation. (4-2-03)
- b.** ~~Cranberry types, Taylor Horticultural types, and Borlotto types~~ All other beans: ~~(4-2-03)~~(4-1-05)T
- i. First generation of seed grown in Idaho must be grown and inspected under rill irrigation. (4-2-03)
- ii. Thereafter, the seed may be grown and inspected for one (1) generation in Idaho under sprinkler irrigation. (4-2-03)
- iii. ~~To be eligible for a second consecutive planting of seed under sprinkler~~ Any time seed has been grown and inspected for one (1) generation in Idaho under sprinkler irrigation and prior to planting the seed under sprinkler irrigation or rill irrigation in Idaho, the seed must be sampled and laboratory tested by the Department in Idaho and found negative for the regulated pests. ~~(4-2-03)~~(4-1-05)T
- iv. Following ~~the~~ a second consecutive planting of the seed under sprinkler irrigation in Idaho, the seed must be sampled and laboratory tested by the Department in Idaho and found negative for the regulated pests. ~~(4-2-03)~~(4-1-05)T
- v. After meeting the requirements of Subsections 200.09.b.i. through 200.09.b.iv., the seed must be grown and inspected for one (1) generation in Idaho under rill irrigation. (4-2-03)
- ~~**e.** All other beans:~~ ~~(4-2-03)~~
- ~~**i.** First two (2) generations of seed grown in Idaho must be grown and inspected under rill irrigation.~~ ~~(4-2-03)~~
- ~~**ii.** Thereafter, the seed may be grown and inspected for one (1) generation in Idaho under sprinkler irrigation.~~ ~~(4-2-03)~~
- ~~**iii.** Following any generation of seed grown under sprinkler irrigation in Idaho, the seed must be grown and inspected for two (2) consecutive generations in Idaho under rill irrigation.~~ ~~(4-2-03)~~

**OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR  
IDAHO DEPARTMENT OF ADMINISTRATION**

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**

**02.06.13 - RULES RELATING TO RAPESEED PRODUCTION AND ESTABLISHMENT  
OF RAPESEED DISTRICTS IN THE STATE OF IDAHO**

**DOCKET NO. 02-0613-0500**

**NOTICE OF CORRECTION - FINAL RULE**

**AUTHORITY:** In compliance with Sections 67-5204, 67-5224, and 67-5291, Idaho Code, notice is hereby given that the Office of the Administrative Rules Coordinator is correcting a transcription error that occurred during the publication of the 1995 Idaho Administrative Code.

**CORRECTION:** This notice corrects a transcription error made during the publication of the 1995 Idaho Administrative Code. In Department of Agriculture rule, IDAPA 02.06.13, "Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho," text was inadvertently omitted from Sections 100 and 200. The omitted text of this rule was previously promulgated and codified in accordance with Sections 67-5204, 67-5224, and 67-5291, Idaho Code, and is hereby reinserted.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance of this correction notice:

Sections 100 and 200 of IDAPA 02.06.13, regulating the production of rapeseed in Idaho, are being reprinted following this notice to reinsert language that was inadvertently omitted during the publication of the 1995 Idaho Administrative Code. The omitted language being reinserted is underscored to show the correct text as it was originally codified. Sections 100 and 200 of this chapter are being reprinted in this Bulletin as codified in accordance with Title 67, Chapter 52, Idaho Code and are final effective rules.

**EFFECTIVE DATE:** The effective dates of the affected Subsections are the original effective dates on which the rules were promulgated and adopted in compliance with Title 67, Chapter 52, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this correction notice or the text of the rule, contact Dennis Stevenson at (208) 332-1820.

DATED this 12th day of July, 2004.

Dennis R. Stevenson  
Administrative Rules Coordinator  
Office of the Administrative Rules Coordinator  
Department of Administration  
P.O. Box 83720 - Boise, ID 83720-0306  
Phone: (208) 332-1820  
Fax: (208) 332-1895

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**THE FOLLOWING IS THE TEXT OF IDAPA 02.06.13, SECTIONS 100 AND 200  
AS CODIFIED IN THE 1995 IDAHO ADMINISTRATIVE CODE.**

**100. RESTRICTIONS.**

**01. Districts I, V, VI, and VII.** Except as otherwise provided in this rule, only edible types of rapeseed may be planted in Districts I, V, VI, and VII. (9-1-94)

**02. District II, III, and IV.** Except as otherwise provided in this rule, only industrial types of rapeseed may be planted in District II and III, and no rapeseed of either variety may be planted in District IV. (7-1-93)

**03. Exemptions:** (7-1-93)

**a.** Industrial types of rapeseed may be planted in Districts I, V, VI, and VII under these conditions: (9-1-94)

i. It is the responsibility of the person planting industrial types of rapeseed in District I, V, and VI to consult with and obtain the written approval from all farmers bordering the fields to be planted with industrial types of rapeseed. (7-1-93)

ii. Industrial types of rapeseed planted in District I, V, VI, and VII must be at least one (1) mile from a field planted to edible types of rapeseed. (9-1-94)

**b.** Spring edible types of rapeseed may be planted in Districts II and III, and winter edible types of rapeseed may be planted in District III. Planting of spring and winter edible types of rapeseed are subject to the following conditions: (3-20-97)

i. It is the responsibility of the person planting spring or winter edible types of rapeseed in Districts II and III to consult with and obtain the written approval from all farmers bordering the fields to be planted with the spring or winter edible type of rapeseed. (3-20-97)

ii. Spring or winter edible types of rapeseed planted in Districts II and III must be at least one (1) mile from a field planted to industrial types of rapeseed. (3-20-97)

**c.** This amendment to Subsections 100.03.b.i. and 100.03.b.ii. is reasonably necessary to confer benefits to the rapeseed/canola industry. The proposed rule change was requested by farmers in Idaho and Lewis counties. The proposed rule change will enable the farmers to plant the winter edible type of rapeseed. (3-20-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. RAPESEED GROWING OUTSIDE CULTIVATED FIELDS ENFORCEMENT AND PENALTIES.**

Volunteer rapeseed plants within designated production districts shall be destroyed prior to flowering. The Director of the State Department of Agriculture shall ~~have the authority to require destruction of any rapeseed prior to~~ flowering that has not met the provisions of these rules. In the event that the person responsible for planting the rapeseed does not comply with the destruction order, the Director is authorized to have the rapeseed destroyed by a third party and the cost of destruction shall be charged to the party responsible for planting the rapeseed. Every violation of the provisions of these rules shall be a misdemeanor and shall be punished by a fine not exceeding one thousand dollars (\$1,000). (7-1-93)

## **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 - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1001 and 54-1006(5), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 15, 2005.

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

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

The proposed rulemaking is necessary to adopt the 2005 edition of the National Electrical Code (NEC). The 2005 edition of the NEC was published by the National Fire Protection Association and represents the most current electrical installation standards.

As authorized by Section 54-1001, Idaho Code, the Idaho Electrical Board adopted the 2005 Edition of the National Electrical Code (NEC) with an effective date of July 1, 2005 in Temporary Rule Docket No. 07-0106-0501 published in the April 6, 2005 Idaho Administrative Bulletin, Volume 05-4, pages 13 and 14.

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

There is no fee associated with this rulemaking.

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

This rulemaking will have no effect on the general fund.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Idaho Electrical Board adopted the 2005 Edition of the National Electrical Code with an effective date of July 1, 2005.

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

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 22, 2005.

DATED this 29th day of April, 2005.

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

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.  
The temporary effective date is July 1, 2005.

The original text of the Temporary Rule was published in the Idaho Administrative  
Bulletin, Volume 05-4, April 6, 2005, pages 13 and 14.

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**THE FOLLOWING IS THE TEXT OF 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)(\_\_\_\_)

**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-way 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. (4-6-05)

**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)(\_\_\_\_)

**IDAPA 07 - DIVISION OF BUILDING SAFETY**

**07.02.06 - RULES CONCERNING UNIFORM PLUMBING CODE  
DIVISION OF BUILDING SAFETY**

**DOCKET NO. 07-0206-0501**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2601 and 54-2605(1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 15, 2005.

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

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

The proposed rule will allow the jurisdictions having authority to regulate seismic strapping. Seismic categories throughout the state are varied and difficult to identify. Many jurisdictions already have in place, and are enforcing, seismic strapping requirements as needed.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the simple nature of the proposed rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ted Hogander, Plumbing Bureau Chief, 208-332-7154.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 22, 2005.

DATED this 29th day of April, 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 DOCKET NO. 07-0206-0501**

**011. ADOPTION AND INCORPORATION BY REFERENCE OF THE 2003 UNIFORM PLUMBING CODE.**

The 2003 Uniform Plumbing Code, including Appendices “A, B, D, E, G, H, I, J, and L,” (herein U.P.C.) is adopted and incorporated by reference with the following amendments. The 2003 Uniform Plumbing Code is available at the Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642; and at the Division of Building Safety, 1250 Ironwood Dr., Ste. 220, Coeur d’Alene, Idaho 83814. (4-6-05)

**01. Section 218.** Delete definition of “Plumbing System.” Incorporate definition of “Plumbing System” as set forth in Section 54-2604, Idaho Code. (3-15-02)

**02. Section 316.1.6.** PVC DWV may be joined by the use of one-step solvent cement listed or labeled per U.P.C. Section 301.1.1. (4-6-05)

**03. Section 420.0.** Pressure balance or thermostatic mixing valves are not required for high flow (over eight (8) g.p.m.) tub filler valves with hand shower sets attached. (3-15-02)

**04. Section 421.0.** Delete. (4-6-05)

**05. Section 508.2.** Delete. ( )

**056. Section 604.1. Materials.** Crosslinked Polyethylene (PEX) Tubing manufactured to ASTM – F876/F877 and tested, approved, and listed to ANSI/NSF 14 and 61, for potable water along with all applicable installation standards may be used for hot and cold water distribution systems within a building or cold water distribution systems outside of a building. Listed PE (polyethylene) water service and yard piping may be installed within a building (above ground and below ground) with one (1) joint, provided that only listed and approved metallic transition fittings shall be used. (4-6-05)

**067. Section 609.4.** Testing. Deleting the phrase “Except for plastic piping,” at the beginning of the third sentence and add the following sentence at the end of the section: Plastic piping is to be tested in accordance with manufacturer’s installation standards. (4-6-05)

**078. Section 609.10.** Water hammer. Does not apply to residential construction. (7-1-98)

**089. Table 6-4 and Table A-2.** Change fixture unit loading value for bathtub or combination bath/shower, and clotheswashers to two (2) fixture units. (3-15-02)

**0910. Section 610.2.** All new one (1) and two (2) family residences must have a pre-plumbed water softener loop. The kitchen sink must have one (1) hot soft line and one (1) cold soft line and one (1) cold hard line. Exterior cold hose bibbs intended for irrigation purposes must be piped with hard water. Provisions must be made for the discharge of the water softener to terminate in an approved location. (5-3-03)

**101. Section 611.4.** Sizing of Residential Softeners. Amend Footnote 3 to read: Over four (4) bathroom groups, softeners shall be sized according to the manufacturer’s standards. (4-6-05)

**112. Table 7-3.** Maximum unit loading and maximum length of drainage and vent piping. (EXCEPTION) The building drain and building sewer is not less than four (4) inches extending from its connection with the city or private sewer system and shall run full size to inside the foundation or building lines (ref: Section 717.0). Change fixture unit loading value for clotheswashers, domestic to two (2) fixture units. (3-15-02)

**123. Section 703.1 - Underground Drainage and Vent Piping.** No portion of the drainage or vent system installed underground, underground under concrete or below a basement or cellar shall be less than two (2) inches in diameter. (3-15-02)

**134. Section 703.2 and 710.5. Add Exception.** In single family dwellings, one (1) fixture unit may be allowed for each gallon per minute of flow from a pump or a sump ejector. (3-15-02)

~~145.~~ **Section 704.2.** Two inch (2") and smaller double sanitary tees may be used for back to back or side by side fixture trap arms without increasing the barrel size. (4-6-05)

~~156.~~ **Section 704.3.** Delete. (5-3-03)

~~167.~~ **Table 7-5.** Change fixture unit loading value for one and a half (1 1/2) inch horizontal drainage to two (2) fixture units. (7-1-98)

~~178.~~ **Section 707.4 Cleanouts.** A full-sized accessible cleanout shall be installed in the vertical immediately above the floor or at the base of each waste or soil stack. A full-size cleanout extending to or above finished grade line shall be installed at the junction of the building drain and the building sewer (ref.: Section 719.1). Cleanouts shall be installed at fifty (50) foot intervals in horizontal drain lines two (2) inches or smaller. (3-15-02)

~~189.~~ **Section 712.1.** In the first sentence, delete the phrase "except that plastic pipe shall not be tested with air". (4-6-05)

~~1920.~~ **Section 801.2.3.** Add: Food preparation sinks, pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware-washing machines, steam kettles, potato peelers, ice cream dipper wells, and other similar equipment and fixtures must be indirectly connected to the drainage system by means of an air gap. The piping from the equipment to the receptor must not be smaller than the drain on the unit, but it must not be smaller than one (1) inch (twenty-five point four (25.4) mm). (5-3-03)

~~201.~~ **Section 807.4.** A domestic dishwashing machine may be installed without the use of an airgap if the drain hose is looped to the bottom side of the counter top and secured properly. (3-15-02)

~~212.~~ **Section 908. Exception - Vertical Wet Venting.** A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 908 are met. (7-1-98)

~~223.~~ **Section 1002.3.** Trap arms may not exceed one hundred eighty (180) degrees of horizontal turn without the use of a cleanout. (3-15-02)

**IDAPA 07 - DIVISION OF BUILDING SAFETY**  
**07.03.13 - RULES GOVERNING MOBILE HOME REHABILITATION**  
**DOCKET NO. 07-0313-0401**  
**NOTICE OF RULEMAKING - FINAL RULE**

**AUTHORITY:** In compliance with Section 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 07-0313-0401. This agency action for this final rulemaking is authorized pursuant to Section 44-2504(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the final rule and a statement of any change between the text of the pending rule and text of the final rule with an explanation for any changes.

Pursuant to Senate Concurrent Resolution No. 117 (SCR 117), Docket No. 07-0313-0401 is not consistent with legislative intent and has been rejected and is declared null, void and of no force and effect. The text of the rule remains as codified prior to this rulemaking.

The original text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 163 and 164. The pending rule was published in the December 1, 2004, Idaho Administrative Bulletin, Volume 04-12, page 42.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this final rule, contact Jack Rayne, Building Bureau Chief, 208-332-7151.

DATED this 28th day of April, 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**

### **07.07.01 - RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS**

**DOCKET NO. 07-0701-0501**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-5004(1) and 54-5005(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 15, 2005.

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

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

The proposed rulemaking is necessary to clarify the building codes pertaining to HVAC installations. The rulemaking will provide consistency between statutes and rules for purposes of enforcement. The proposed rulemaking will also establish requirements for specialty journeyman certification and requirements for apprentice and specialty apprentice registration.

In February 2005, the Division of Building Safety adopted this rule as a temporary rule with an effective date of January 1, 2005. The temporary rule was published in the Idaho Administrative Bulletin, Volume 05-2, February 2, 2005, pages 12 and 18. With this publication the Department is initiating proposed rulemaking.

Senate Concurrent Resolution No. 116 (SCR 116) rejected certain subsections of the temporary rule adopted under Docket No. 07-0701-0501. The following subsections were found to be inconsistent with legislative intent and were rejected and declared null, void and of no force and effect: Subsections 07.07.01.005.01.d, 005.01.i, 006.01.e and 006.01.i. These rejected subsections are being republished as part of the proposed rule to show the affect of SCR 116.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the of the need to adopt a temporary rule to protect the public's health, safety and welfare.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ted Hogander, Plumbing Bureau Chief, (208) 332-7154.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 22, 2005.

DATED this 29th day of April, 2005.

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

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.  
The temporary effective date is February 2, 2005.

The original text of the Temporary Rule was published in the Idaho  
Administrative Bulletin, Volume 05-2, February 2, 2005, pages 12 through 18.

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0701-0501**

**000. LEGAL AUTHORITY.**

This chapter is adopted in accordance with Sections 54-5001 and 54-5005(2), Idaho Code. (~~3-16-04~~)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL MECHANICAL CODE, 2003 EDITION.**

**01.** *There are no documents that have been incorporated by reference into this rule. **The International Mechanical Code**, 2003 Edition, including appendix "A", (herein IMC) is adopted and incorporated by reference with the following amendments:* (~~3-16-04~~)( )

**a.** Where differences occur between the IMC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules shall apply. ( )

**b.** All references to the International Plumbing Code (IPC) shall be construed as referring to the Uniform Plumbing Code (UPC) as adopted and amended by the Idaho State Plumbing Board. ( )

**c.** All references to the International Code Council Electrical Code (ICC EC) shall be construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. ( )

**d.** Section 312. Sizing requirements shall be as established by the authority having jurisdiction. ( )

**02.** **The International Mechanical Code**, 2003 Edition, is available at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642 and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. ( )

**005. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL FUEL GAS CODE, 2003 EDITION.**

**01.** **The International Fuel Gas Code**, 2003 Edition, including appendixes "A, B, C, and D," (herein IFGC) is adopted and incorporated by reference with the following amendments: ( )

**a.** Where differences occur between the IFGC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules shall apply. ( )

**b.** All references to the International Plumbing Code (IPC) shall be construed as referring to the

Uniform Plumbing Code (UPC) as adopted and amended by the Idaho State Plumbing Board. ( )

c. All references to the International Code Council Electrical Code (ICC EC) shall be construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. ( )

d. ~~Section 303.3. Delete exception 4. Unvented fuel-burning room heaters shall not be installed in a Group A, E, I, or R occupancy. (SCR 116)~~

ed. Section 406.4. Change the last sentence to: Mechanical gauges used to measure test pressure shall have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. ( )

fe. Section 406.4.1. Test Pressure. Not less than twenty (20) psig (140kPa gauge) test pressure shall be required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (70kPa gauge); not less than sixty (60) psig (420kPa gauge) test pressure shall be required. For systems over ten (10) psig (70kPa gauge) working pressure, minimum test pressure shall be no less than six (6) times working pressure. ( )

gf. Section 406.4.2. The test duration shall not be less than twenty (20) minutes. ( )

hg. Section 505.1.1. Addition. An interlock between the cooking appliance and the exhaust hood system shall not be required for appliances that are of the manually operated type and are factory equipped with standing pilot burner ignition systems. ( )

i. ~~Section 621.4. Prohibited Locations. Unvented fuel-burning room heaters shall not be installed in a Group A, E, I, or R occupancy. (SCR 116)~~

02. **The International Fuel Gas Code, 2003 Edition, is available at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642 and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. ( )**

**006. ADOPTION AND INCORPORATION BY REFERENCE OF PARTS V (MECHANICAL) AND PARTS VI (FUEL GAS) OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO-FAMILY DWELLINGS, 2003 EDITION.**

01. **Parts V (Mechanical) and Parts VI (Fuel Gas) of the International Residential Code for One and Two-Family Dwellings, 2003 Edition, including appendixes "A, B, C, and D", (herein IRC) are adopted and incorporated by reference with the following amendments. ( )**

a. Where differences occur between the IRC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules shall apply. ( )

b. All references to the International Plumbing Code (IPC) shall be construed as referring to the Uniform Plumbing Code (UPC) as adopted and amended by the Idaho State Plumbing Board. ( )

c. All references to the International Code Council Electrical Code (ICC EC) shall be construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. ( )

d. Section M1401.3. Sizing requirements shall be as established by the authority having jurisdiction. ( )

e. ~~Section G2406.2 (303.3). Delete exception 4. Unvented fuel-burning room heaters shall not be installed in a Group A, E, I, or R occupancy. (SCR 116)~~

fe. Section G2417.4 (406.4). Change the last sentence to: Mechanical gauges used to measure test pressure shall have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. ( )

~~g~~**f.** Section G2417.4.1 (406.4.1). Test Pressure. Not less than twenty (20) psig (140kPa gauge) test pressure shall be required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (70kPa gauge); not less than sixty (60) psig (420kPa gauge) test pressure shall be required. For systems over ten (10) psig (70kPa gauge) working pressure, minimum test pressure shall be no less than six (6) times working pressure. ( )

~~h~~**g.** Section G2417.4.2 (406.4.2). The test duration shall not be less than twenty (20) minutes. ( )

~~i.~~ Section G2445.4 (621.4). Prohibited Locations. Unvented fuel-burning room heaters shall not be installed in a Group A, E, I, or R occupancy. (SCR 116)

**02.** The International Residential Code for One- and Two-Family Dwellings, 2003 Edition, is available at the Division of Building Safety offices located at 1090 E. Watertower St., Meridian, Idaho 83642 and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. ( )

**0057. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Division of Building Safety, HVAC Bureau is located at 1090 E. Watertower Street, Meridian, Idaho. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The mailing address is: Division of Building Safety, HVAC Bureau, 1090 E. Watertower Street, Meridian, Idaho 83642. The office telephone number is (208) 334-~~3950~~ 6180 and the facsimile number is (208) 855-~~2164~~ 0768. (3-16-04)( )

**0068. FILING OF DOCUMENTS.**

All written communications and documents that are intended to be part of an official record for decision in a rulemaking or contested case, must be filed with the administrator of the Division. Communications and documents shall be filed by mail, hand-delivery, or by facsimile transmission. One (1) original must be filed with the administrator, and one (1) copy must be submitted to the opposing parties. Whenever documents are filed by facsimile transmission, originals shall be deposited in the mail the same day or hand-delivered the following business day to the administrator and opposing parties. (3-16-04)

**0079. PUBLIC RECORDS ACT COMPLIANCE.**

These rules were promulgated in accordance with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. These rules and all records of the HVAC board are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (3-16-04)

**00810. CHANGES IN NAME AND ADDRESS -- ADDRESS FOR NOTIFICATION PURPOSES.**

**01. Change of Name.** Whenever a change of name occurs for a certified contractor, journeyman, specialty journeyman, specialty contractor, ~~or~~ registered apprentice, or specialty apprentice, the HVAC board must be notified immediately, in writing, of the change. Documentation confirming the change of name must be provided to the board on request. (3-16-04)( )

**02. Change of Address.** Whenever a change of mailing address occurs for a certificated contractor, journeyman, specialty journeyman, specialty contractor, ~~or~~ registered apprentice, or specialty apprentice, the HVAC board must be notified immediately, in writing, of the change. (3-16-04)( )

**03. Address for Notification Purposes.** The most recent mailing address on record with the HVAC board will be utilized for purposes of all written communication with certified contractors, journeymen, specialty journeymen, specialty contractors, ~~and~~ registered apprentices, and specialty apprentices, including, but not limited to, notification of renewal and notices related to inspections. (3-16-04)( )

**00911. MEETINGS.**

HVAC Board meetings are subject to the provisions of the Idaho Open Meeting Law, Title 67, Chapter 23, Idaho Code. (3-16-04)

**0102. DEFINITIONS.**

- 01. Administrator.** The administrator of the Idaho Division of Building Safety. (3-16-04)
- 02. Board.** The Idaho Heating, Ventilation, and Air Conditioning (HVAC) Board. (3-16-04)
- 03. Bureau.** The Idaho Division of Building Safety, Heating, Ventilation, and Air Conditioning Bureau. (3-16-04)
- 04. Division.** The Idaho Division of Building Safety. (3-16-04)
- 05. Additional Definitions.** Terms defined in Section 54-5003, Idaho Code, will have the same meaning when utilized in these rules. (3-16-04)
- 06. Rules.** IDAPA 07.07.01, "Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety". (3-16-04)

**0143. CERTIFICATES OF COMPETENCY -- ISSUANCE, RENEWAL, EXPIRATION-REVIVAL.**

**01. Issuance.** Certificates of competency shall be issued in such a manner as to create a renewal date that coincides with the birth month of the individual to whom the certificate is issued and allows for renewals every three (3) years. (4-6-05)

**a.** Certificates of competency shall be issued for a period of no less than one (1) year and no more than three (3) years. For example: a qualified applicant who applies for a certificate of competency in August of year one (1), but whose birthday will not occur until March of year two (2) shall be issued a certificate of competency renewable on the anniversary of the applicant's birth month. (4-6-05)

**b.** The fee for issuance of certificates of competency shall be prorated based on the number of months for which the certificate is issued. (4-6-05)

**02. Renewal.** Certificates of competency shall be renewed in such a manner as to create a staggered system of certificate renewals using the birth month of the individual to whom the certificate is issued as the expiration date. (4-6-05)

**a.** Certificates of competency shall be renewed for a period of no less than one (1) year and no more than three (3) years. (4-6-05)

**b.** The fee for renewal of certificates of competency shall be prorated based on the number of months for which the certificate is issued. (4-6-05)

**03. Expiration-Revival.** (4-6-05)

**a.** Certificates that are not timely renewed will expire on the last day of the month in which the renewal is due. (4-6-05)

**b.** Revived certificates shall be issued in such a manner as to create a renewal date that coincides with the birth month of the applicant so as to create a staggered system of renewal. (4-6-05)

**0124. -- 019. (RESERVED).**

**020. HVAC CONTRACTOR AND HVAC JOURNEYMAN APPLICATIONS FOR EXAMINATION AND CERTIFICATES OF COMPETENCY, AND REGISTRATION OF APPRENTICES.**

Application forms for HVAC contractor, HVAC specialty contractor, *and* HVAC journeyman, *and* HVAC specialty journeyman examinations or certificates of competency and for HVAC apprentice or HVAC specialty apprentice registrations, shall be printed and made available by the administrator. (~~3-16-04~~)( )

**01. Application Forms.** All applications for certificates and all applications for registration shall be

submitted on forms provided by the administrator and shall be properly completed, giving all pertinent information, and all signatures shall be notarized. (3-16-04)

**02. Application, Renewal, and Registration Fees.** Fees for applications for examination, certificates of competency, renewal of certificates, and fees for apprentice registration shall be as set forth in Section 54-5012, Idaho Code. (3-16-04)

**03. Application Submission.** All applications shall be submitted to the Board and shall be approved by an administrator before any examination may be taken and before any certificate of competency is issued. (3-16-04)

**(BREAK IN CONTINUITY OF SECTIONS)**

**023. HVAC JOURNEYMAN CERTIFICATES OF COMPETENCY.**

**01. Requirements for HVAC Journeyman.** (3-16-04)

**a.** Experience. Demonstrate, to the satisfaction of the board, a minimum of four (4) years experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice making HVAC installations on the job under the ~~constant~~ supervision of a qualified HVAC journeyman. (3-16-04)( )

**b.** Education. Successfully complete any required apprenticeship training courses. (3-16-04)

**c.** Examination. Applicants for certification as HVAC journeymen must successfully complete the examination designated by the board. (3-16-04)

**02. Alternate Requirements for HVAC Journeyman (Applies Only Until April 1, 2005).** (3-16-04)

**a.** Qualification. Proof, satisfactory to the board, of having been engaged or being qualified to be engaged in the installation, improvement, extension, alteration, or repair of HVAC systems as a journeyman prior to July 1, 2004. Forms of proof include, but are not limited to: (3-16-04)

**i.** Copies of journeyman certification; (3-16-04)

**ii.** Licensure or registration; (3-16-04)

**iii.** Signed notarized affidavits from employers or labor organizations; or (3-16-04)

**iv.** Certificates of completion from journeyman educational or training programs. (3-16-04)

**b.** Examination. Copies of the HVAC statute and rules, along with an examination regarding the statute and rules will be included in each application package. The examination is to be completed using the statute and rules and a written verification of completion of the examination must be submitted at the same time as the completed application for a certificate of competency. (3-16-04)

**024. HVAC SPECIALTY JOURNEYMAN CERTIFICATES OF COMPETENCY.**  
Requirements for HVAC Specialty Journeyman. ( )

**01. Experience.** Demonstrate, to the satisfaction of the board, a minimum of two (2) years experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice or registered HVAC specialty apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman or qualified HVAC specialty journeyman. ( )

- 02. Education.** Successfully complete any required apprenticeship training courses. ( )
- 03. Examination.** Applicants for certification as HVAC specialty journeymen must successfully complete an examination designated by the board. ( )
- 025. HVAC APPRENTICE REQUIREMENTS FOR REGISTRATION.**  
Requirements for HVAC Apprentice. ( )
- 01. Age.** Minimum of eighteen (18) years of age unless registered in a Bureau of Apprenticeship Training (BAT) certified HVAC training program. ( )
- 02. Training.** Maintain enrollment in or successfully complete a training program approved by the board. ( )
- 03. Supervision.** Work under the supervision of a certified HVAC journeyman. ( )
- 026. HVAC SPECIALTY APPRENTICE REQUIREMENTS FOR REGISTRATION.**  
Requirements for HVAC Specialty Apprentice. ( )
- 01. Age.** Minimum of eighteen (18) years of age unless registered in a Bureau of Apprenticeship Training (BAT) certified HVAC training program. ( )
- 02. Training.** Maintain enrollment in or successfully complete a training program approved by the board. ( )
- 03. Supervision.** Work under the supervision of a certificated HVAC journeyman or certificated HVAC specialty journeyman. ( )
- 0247. -- 049. (RESERVED).**

## IDAPA 12 - DEPARTMENT OF FINANCE

### 12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-0501

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

**AUTHORITY:** In compliance with Section 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 Sections 26-3105(5) and 26-3110(4)(a), Idaho Code.

**HEARING SCHEDULE:** Public hearings on the negotiated rulemaking will be held as follows:

**Wednesday, June 15, 2005  
9:00 a.m. to 12:00 p.m.  
Department of Finance, Conference Room  
700 West State Street, 2nd Floor, Boise, Idaho**

**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. Present oral or written recommendations, or both, at the time of the negotiated rulemaking.
3. Submit written recommendations to the contact person at the address below.

**DESCRIPTIVE SUMMARY:** The Idaho Department of Finance, DOF, is initiating this rulemaking for the purpose of making revisions to the Rules Pursuant to the Idaho Residential Mortgage Practices Act.

Negotiated rulemaking is being initiated in order to establish requirements for the continuing education of persons licensed under the Idaho Residential Mortgage Practices Act and to determine criteria for the content of continuing education courses. The negotiated rulemaking will also explore changes in provisions of existing rules related to trust accounts; written disclosures required in residential mortgage loan transactions; and, prohibited practices associated with such transactions.

Upon conclusion of negotiations, DOF intends to publish a proposed rule for public comment in the summer of 2005. Following a period for review of public comments, DOF intends to adopt a pending rule in the fall of 2005.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions or for further information regarding this negotiated rulemaking, contact Anthony Polidori at (208)-332-8084.

Dated this 25th day of April, 2005.

Michael Larsen  
Consumer Finance Bureau Chief  
Idaho Department of Finance  
700 West State Street, 2nd Floor  
P.O. Box 83720  
Boise, ID 83720-0031  
(208)-332-8000 Phone  
(208)-332-8099 Fax

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM

#### DOCKET NO. 16-0309-0503

#### 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 56-202(b) and 56-203(g), Idaho Code, and Section 56-118, Idaho Code, adopted by the 2005 Legislature.

**MEETING SCHEDULE:** A public meeting on the negotiated rulemaking will be held as follows:

**Date:** Friday, June 10, 2005  
**Time:** 9:00 a.m. to 12:00 noon  
**Place:** Division of Medicaid, Conference Room D-East and West  
3232 Elder Street  
Boise, Idaho

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

1. Attend the negotiated rulemaking meeting and participate in the negotiation process;
2. Provide oral or written recommendations, or both at the negotiated rulemaking meeting;
3. Submit written recommendations and 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 because current rules do not reflect the changes adopted by the 2005 Legislature under HB 190. Rules are needed to identify how rate comparisons with other state Medicaid programs will be conducted, how costs of Medicaid services providers will be obtained and evaluated and identify other methods used to compile an annual report to the Department and the Legislature on reimbursement.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking contact Sheila Pugatch at (208) 364-1817 or Angela Simon at (208) 364-1994. A draft copy of text will be available at the negotiated rulemaking meeting. Anyone may submit written comments regarding this negotiated rulemaking.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 17, 2005.

DATED this 4th day of May, 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 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES**

**DOCKET NO. 16-0319-0501**

**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 Section 39-3505, Idaho Code.

**MEETING SCHEDULE:** A public meeting on the negotiated rulemaking will be held as follows:

**Date:** Wednesday, June 15, 2005  
**Time:** 1:00 - 5:00 p.m.  
**Place:** Division of Medicaid, Conference Room D-East and West  
3232 Elder Street  
Boise, Idaho

**METHOD OF PARTICIPATION:** Persons may participate in negotiated rulemaking by any of the following:

1. Attend the negotiated rulemaking meeting and participate in the negotiation process;
2. Provide oral or written recommendations, or both, at the negotiated rulemaking meeting;
3. Submit written recommendations or 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 collect input from providers, consumers and families of certified family home residents, advocacy groups and professional associations. Current rules do not reflect the changes adopted by the 2005 Legislature under HB 265a to Title 39, Chapter 35, Idaho Code, regarding requirements for certified family homes. In order to comply with the new statute effective July 1, 2005, the Department is promulgating rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking contact Mary Betournay at (208) 364-1950. A draft copy of text will be available at the negotiated rulemaking meeting.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and delivered on or before June 22, 2005.

DATED this 4th day of May, 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 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.22 - RULES FOR LICENSED RESIDENTIAL OR ASSISTED LIVING FACILITIES IN IDAHO

DOCKET NO. 16-0322-0501

#### 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 Section 39-3305, Idaho Code.

**MEETING SCHEDULE:** A public meeting on the negotiated rulemaking will be held as follows:

**Date:** Friday, June 17, 2005  
**Time:** 1:00 - 5:00 p.m.  
**Place:** Division of Medicaid, Conference Room D-East and West  
3232 Elder Street  
Boise, Idaho

**METHOD OF PARTICIPATION:** Persons may participate in negotiated rulemaking by any of the following:

1. Attend the negotiated rulemaking meeting and participate in the negotiation process;
2. Provide oral or written recommendations, or both at the negotiated rulemaking meeting;
3. Submit written recommendations and 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 collect input from providers, consumers and families of residential care or assisted living facilities, advocacy groups and professional associations. Current rules do not reflect the changes adopted by the 2005 Legislature under HB 265a, Title 39, Chapter 33, Idaho Code, regarding requirements for residential care or assisted living facilities. In order to comply with the new statute effective July 1, 2005, the Department is promulgating rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking contact Chris Baylis at (208) 364-1891. A draft copy of text will be available at the negotiated rulemaking meeting.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and delivered on or before June 22, 2005.

DATED this 4th day of May, 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 18 - DEPARTMENT OF INSURANCE**

### **18.01.09 - SENIOR CONSUMER PROTECTION IN ANNUITY TRANSACTIONS**

**DOCKET NO. 18-0109-0501**

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

**AUTHORITY:** In compliance with Section 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. The action is negotiated rulemaking authorized pursuant to Section(s) 41-211 and 41-1940, Idaho Code.

**MEETING SCHEDULE:** Persons interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting:

**Date:** June 7, 2005  
**Time:** 2:00 p.m. to 4:00 p.m. MST  
**Location:** 700 W. State Street  
Conference Room A, 3<sup>rd</sup> Floor  
Boise, Idaho

Interested persons will have the opportunity to submit oral or written comments at the meeting.

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 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:

The purpose of this rulemaking is to develop rules to implement Section 41-1940, Idaho Code, which was enacted this year and will require that insurance producers (agents and brokers), and insurers where no producer is used, who sell annuities to senior consumers take reasonable steps to determine that the annuity product is a suitable investment for the senior purchaser. A preliminary draft of a proposed rule that is being considered to implement the senior annuity sales requirements is available for review at the Department of Insurance website, [www.doi.idaho.gov](http://www.doi.idaho.gov), or by contacting the Department to request a copy. The draft rule is based on a model rule developed by the National Association of Insurance Commissioners.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Shad Priest, Deputy Director, by phone at (208) 334-4250 or by email at [spriest@doi.state.id.us](mailto:spriest@doi.state.id.us).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 22, 2005.

DATED this 29th date of April, 2005.

Shad D. Priest  
Deputy Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.10 - PRODUCERS HANDLING OF FIDUCIARY FUNDS**

**DOCKET NO. 18-0110-0501**

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

**AUTHORITY:** In compliance with Section 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. The action is negotiated rulemaking authorized pursuant to Section(s) 41-211 and 41-1024, Idaho Code.

**MEETING SCHEDULE:** Persons interested in participating in the negotiated rulemaking process are encouraged to attend the following meeting:

**Date:** June 8, 2005  
**Time:** 9:00 a.m. to 11:00 a.m. MST  
**Location:** 700 W. State Street  
Conference Room A, 3<sup>rd</sup> Floor  
Boise, Idaho

Interested persons will have the opportunity to submit oral or written comments at the meeting.

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 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:

The purpose of this rulemaking is to develop rules to implement Section 41-1024, Idaho Code, which was enacted this year and will require that all insurance producers (agents and brokers) maintain a trust account to hold all fiduciary funds received by the producer. A preliminary draft of a proposed rule that is being considered to implement the fiduciary fund account requirements is available for review at the Department of Insurance website, [www.doi.idaho.gov](http://www.doi.idaho.gov), or by contacting the Department to request a copy.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Shad Priest, Deputy Director, by phone at (208) 334-4250 or by email at [spriest@doi.state.id.us](mailto:spriest@doi.state.id.us).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 22, 2005.

DATED this 29th date of April, 2005.

Shad D. Priest  
Deputy Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

**IDAPA 18 - DEPARTMENT OF INSURANCE**  
**18.01.18 - OPEN LINES FOR EXPORT - SURPLUS LINES**  
**DOCKET NO. 18-0118-0501**

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

**AUTHORITY:** In compliance with Section 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. The action is negotiated rulemaking authorized pursuant to Section(s) 41-211 and 41-1216, Idaho Code.

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

**Date:** June 7, 2005  
**Time:** 9:00 a.m. to 11:00 a.m. MST  
**Location:** 700 W. State Street  
Conference Room A, 3rd Floor  
Boise, Idaho

Interested persons will have the opportunity to submit oral or written comments at the hearing.

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

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

At the request of the Idaho Surplus Lines Association, the Department is considering changes to the listing of lines of insurance that are considered to be "open lines" for purposes of treatment as surplus lines insurance (See Open Lines for Export listing at IDAPA 18.01.18.014). The insurance lines included on this listing represent lines of insurance for which there appears to be no reasonable or adequate market among insurers authorized to do business in this state. The Department is also considering some technical changes to the rule to replace outdated or unnecessary wording. A preliminary draft of changes to the rule that are being considered is available for review at the Department of Insurance website, [www.doi.idaho.gov](http://www.doi.idaho.gov), or by contacting the Department to request a copy.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Shad Priest, Deputy Director, by phone at (208) 334-4250 or by email at [spriest@doi.state.id.us](mailto:spriest@doi.state.id.us).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 22, 2005.

DATED this 29th date of April, 2005.

Shad D. Priest  
Deputy Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

## **IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD**

### **25.01.01 - RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD**

#### **DOCKET NO. 25-0101-0402**

#### **NOTICE OF RULEMAKING - FINAL RULE**

**AUTHORITY:** In compliance with Section 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 25-0101-0402. This agency action for this final rulemaking is authorized pursuant to Section(s) (36-2107(b) and (d), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the final rule and a statement of any change between the text of the pending rule and text of the final rule with an explanation for any changes.

Pursuant to Senate Concurrent Resolution No. 117 (SCR 117), Docket No. 25-0101-0402 at the request of the Board has been rejected in its entirety and is declared null, void and of no force and effect. The text of the rule remains as codified prior to this rulemaking.

The original text of the proposed rule was published in the September 1, 2004, Idaho Administrative Bulletin, Volume 04-9, pages 188 through 214. The pending rule was published in the January 5, 2005, Idaho Administrative Bulletin, Volume 05-1, page 159 through 162.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this final rule, contact Jake Howard, Executive Director (208) 327-7380 - FAX (208) 327-7382.

DATED this April 11, 2005.

Jake Howard  
Executive Director  
Outfitters and Guides Licensing Board  
1365 North Orchard, Suite 172  
Boise, ID 83706  
(208) 327-7380  
FAX (208) 327-7382

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.11 - RULES GOVERNING OVERLEGAL PERMITTEE RESPONSIBILITY AND TRAVEL RESTRICTIONS

DOCKET NO. 39-0311-0401

#### NOTICE OF RULEMAKING - FINAL RULE

**AUTHORITY:** In compliance with Section 67-5224 and 67-5291, Idaho Code, notice is hereby given that the legislature has taken action by concurrent resolution on this rulemaking under Docket No. 39-0311-0401. This agency action for final rulemaking is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the final rule and a statement of any change between the text of the pending rule and text of the final rule with an explanation for any changes.

Pursuant to House Concurrent Resolution 11 (HCR 11), the 2005 Legislature rejected proposed changes to Subsection 39.03.11.200.06, which they found to be inconsistent with legislative intent. Therefore, the text will revert back to its original form which follows this notice.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this final rule, contact Alan Frew, Port of Entry Manager, 334-8694.

DATED this 13th day of April, 2005.

Linda L. Emry, Management Assistant  
Office of Budget, Policy, Intergovernmental Relations  
Idaho Transportation Department  
P. O. Box 7129, Boise ID 83707-1129  
Phone: 208-334-8810  
FAX: 208-334-8195

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#### THE FOLLOWING IS THE TEXT OF THE FINAL RULE OF DOCKET NO. 39-0311-0401

##### **200. TIME OF TRAVEL RESTRICTIONS FOR OVER LEGAL LOADS.**

Oversize loads may be transported on Idaho Highways subject to the following conditions: (10-2-89)

**01. Red-Coded Routes.** Daylight travel until 2 p.m. on Friday, no Saturday, no Sunday. Due to low traffic volumes on these routes early in the mornings of Saturday and Sunday, single trip permits may be issued for dawn to 8 a.m. If the movement is not completed by 8 a.m. the permittee will be required to safely park and not proceed until the next day. (4-5-00)

**02. Black-Coded Routes.** Loads not in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may travel daylight hours seven (7) days per week. (12-26-90)

**03. Interstate.** Loads not in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fourteen (14) feet six (6) inches high may

travel daylight hours, seven (7) days per week. (4-5-00)

**04. Additional Restrictions.** (8-25-94)

**a.** Red-Coded Routes: No travel for any load after 2 p.m. on the day preceding a holiday or holiday weekend. A holiday weekend occurs as three (3) consecutive days, when a designated holiday occurs on a Friday or Monday, or when the designated holiday occurs on a Saturday or Sunday, in which case the preceding Friday or the following Monday shall be included in such three (3) day holiday weekend. Travel may be resumed at dawn on the day following the holiday or holiday weekend. (4-5-00)

**b.** Black-Coded Routes and Interstate Routes: Loads in excess of ten (10) feet wide, one hundred (100) feet long or fourteen (14) feet six (6) inches high may not travel after 4:00 p.m. on the day preceding a holiday; travel may be resumed at dawn on the day following the holiday. (4-5-00)

**c.** The following days are designated as holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. (8-25-94)

**d.** Additional restrictions relating to movement of buildings and houses are listed in IDAPA 39.03.18, "Rules Governing Overlegal Permits for Relocation of Buildings or Houses," Section 400. (4-5-00)

**e.** Other time of travel restrictions may be noted on the permit due to special circumstances. (8-25-94)

**05. Hours Of Darkness.** Hours are defined as extending from one-half (1/2) hour after sundown to one-half (1/2) hour before sun rise or at any other time when visibility is restricted to less than five hundred (500) feet. (4-5-00)

**06. Heavy Commuter Traffic Restrictions.** The movement of oversize vehicles or loads which are in excess of twelve (12) feet in width, in excess of eighty-five (85) feet in length, or in excess of sixteen (16) feet in height may be prohibited from movement on highways within the urban limits of the following cities: Boise, Caldwell, Coeur d'Alene, Idaho Falls, Lewiston, Nampa, Pocatello, Twin Falls, Garden City, and Chubbuck at times of heavy commuter traffic. Unless otherwise defined on the permit, the times of heavy commuter traffic shall be considered to be 6:30 a.m. to 8:30 a.m., 11:30 a.m. to 1:30 p.m. and 4 p.m. to 6 p.m. This restriction may not apply to sections of completed Interstate Highway within the above listed cities. Such a restriction of oversize load travel to avoid conflict with heavy commuter traffic volumes shall appear on the face of the permit. (4-5-00)

**07. Hazardous Travel Conditions Restrictions.** Extreme caution in the operation of permitted vehicle combinations shall be exercised when hazardous conditions exist. The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid enroute when travel conditions become hazardous due to ice, snow or frost; when visibility is restricted to less than five hundred (500) feet by fog, dust, smoke or smog or other atmospheric conditions. (3-10-05)

**08. Delaying Movement.** Enforcement personnel responsible for any section of highway may delay movements and carry out enforcement action for violations involving overlegal permit operations. (4-5-00)

**09. Map Resources.** The Pilot/Escort Vehicle and Travel Time Requirement Map is available at the Idaho Transportation Department Overlegal Permit Office, and Ports of Entry, and District Offices. (4-5-00)

## **IDAPA 54 - OFFICE OF THE STATE TREASURER**

### **54.02.01 - RULES GOVERNING THE COLLEGE SAVINGS PROGRAM**

#### **DOCKET NO. 54-0201-0501**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is December 9, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-5402, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 15, 2005.

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

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

Recent changes adopted by the federal government in connection with the U.S.A. Patriot Act and various federal money laundering acts require banks and investment companies to adopt security measures to help limit the illicit movement of funds. TIAA-CREF, the investment company that acts as the administrator of the Idaho College Savings Program, has adopted internal policies restricting the dollar amounts and types of checks that it will accept from investors in an attempt to comply with anti-money laundering statutes. The Idaho College Savings Program rule that defines the type and form of funds that can be accepted as contributions to college savings plans needs to be amended to comply with TIAA-CREF's anti-money laundering policies.

The proposed rule clarifies and expands on the definition of the term "cash" as that term relates to contributions by check. In an effort to mirror the intent of the U.S.A. Patriot Act and various federal money laundering acts, IDAPA 54.02.01.010.06 is being amended to further clarify and restrict the dollar amounts and types of checks that will be accepted from parties making contributions to accounts established pursuant to the Idaho College Savings Program.

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

To ensure that Idaho's College Savings Program accounts are subject to the guidelines that the Program's administrator has adopted in compliance with anti-money laundering provisions of the U.S.A. Patriot Act and various other federal statutes.

**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

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

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the immediate need to conform the rules of the Idaho College Savings Program with the federal laws that the Program's administrator is required to follow in managing the investment accounts of Program participants.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary and proposed rule, contact Liza C. Carberry, Investment Manager, at (208) 332-2997.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 22, 2005.

DATED this 23rd day of March, 2005.

Liza C. Carberry, Investment Manager  
Idaho Office of the State Treasurer  
State Capitol Building, Rooms 101-109  
P. O. Box 83720, Boise, Idaho 83720-0091  
Phone : (208) 332-2997  
Fax : (208) 332-2960

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 54-0201-0501**

**010. DEFINITIONS.**

- 01. Act.** The College Savings Program, Title 33, Chapter 54, Idaho Code. (3-15-02)
- 02. Account.** An individual trust account or savings account established as prescribed in Title 33, Chapter 54, Idaho Code. (3-15-02)
- 03. Account Owner.** The Person identified as the Account Owner in the Program's participation agreement. (5-3-03)
- 04. Beneficiary or Designated Beneficiary.** Except as provided in Section 33-5404, Idaho Code, with respect to an Account, the Person designated at the time the Account is opened as the Person whose higher education expenses are expected to be paid from the Account or, if this Beneficiary is replaced in accordance with Section 33-5404, Idaho Code, the replacement Beneficiary. (5-3-03)
- 05. Board.** The State College Savings Program Board created by Section 33-5402, Idaho Code. (3-15-02)
- 06. Cash.** Cash shall include checks (~~other than traveler's checks, cashier's checks or third-party checks exceeding ten thousand dollars (\$10,000)~~ as limited in this section), payroll deductions, automatic contribution plans, electronic funds transfers, and transfers from another Qualified Tuition Program. Cash does not include property. Contributions by check must be drawn on a banking institution located in the United States in U.S. dollars. Personal checks, bank drafts, teller's checks, and checks issued by a financial institution or brokerage firm payable to the Account Owner and endorsed over to the Program by the Account Owner are permitted. Third-party personal checks up to ten thousand dollars (\$10,000) are also permitted. Money orders, cashier's checks, traveler's checks, starter checks, and credit card convenience checks are not permitted, nor are third-party personal checks exceeding ten thousand dollars (\$10,000). (~~5-3-03~~)(12-9-04)T
- 07. Contingent Account Owner.** The Person designated by the Account Owner, pursuant to Subsection 021.02, to become the owner of the Account upon the death of the Account Owner. (3-15-02)
- 08. Contribution.** Cash deposited into an Account established under the Act for the benefit of a Designated Beneficiary. (3-15-02)
- 09. Earnings.** The total Account balance on a particular date minus the Contributions in the Account as of that date. (3-15-02)
- 10. Member of the Family.** Shall have the meaning as provided in 26 U.S.C. Section 529. (3-15-02)

11. **Person or Persons.** An individual, a trust, an estate, a partnership, an association or a corporation.  
(3-15-02)
12. **Program.** The College Savings Program established under Title 33, Chapter 54, Idaho Code.  
(3-15-02)
13. **Program Manager.** The financial institution selected by the Board pursuant to the provisions of Section 33-5403, Idaho Code, to act as manager of the Program.  
(3-15-02)
14. **Qualified Higher Education Expense.** Shall have the meaning as provided in Section 33-5401(10), Idaho Code.  
(5-3-03)
15. **Qualified Tuition Programs.** Shall have the meaning as provided in 26 U.S.C. Section 529.  
(5-3-03)
16. **Qualified Withdrawal.** Shall have the meaning as provided in Section 33-5401(11), Idaho Code.  
(5-3-03)
17. **Rollover Distribution.** Shall have the meaning set forth in 26 U.S.C. Section 529(c)(3)(C)(i).  
(5-3-03)

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

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

#### **DOCKET NO. 58-0101-0504**

#### **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 meeting. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Phyllis Heitman at (208) 373-0256 or pheitman@deq.idaho.gov.

**June 7, 2005, 1:30 p.m. to 3:30 p.m.**  
**Department of Environmental Quality**  
**Conference Room B**  
**1410 N. Hilton, Boise, Idaho**

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

The Department of Environmental Quality (DEQ) proposes to revise sections of the Rules for the Control of Air Pollution in Idaho (Rules) that pertain to emission registration requirements for Title V sources of air pollution as outlined in IDAPA 58.01.01.389.04. Changing the Registration Information rule eliminates a redundancy in Title V facility reporting of emissions. Currently, the regulated community completes separate annual emissions registration and emissions inventory projects. The data needed for each project is similar. This rule change will ensure that the one data type required is sufficient to cover both projects in one request. Therefore, the rule change will consolidate emissions registration and inventories and maximize industry and DEQ efficiency for the two required projects.

The Registration Information rule change will allow emissions data submissions to be completed using a Web-based collection program. Use of this method creates a personnel-hour savings for both facility and DEQ staff, while at the same time eliminating confusion between the two emissions reporting projects, reducing necessary data quality-assurance checks through computer automation, and providing more accurate fee calculations. The change will allow DEQ to meet proposed EPA data transfer deadlines.

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 major sources of air pollution may be interested in participating in this rulemaking. Special interest groups, public officials, or members of the public who have an interest in the regulation of air emissions from 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 August 2005 issue of the Idaho Administrative Bulletin and then present to the Board of Environmental Quality for adoption of a temporary/pending rule in October 2005. The temporary/pending rule will be published in the December 2005 issue of the Idaho Administrative Bulletin and will be reviewed by the 2006 Idaho Legislature.

**PRELIMINARY DRAFT:** A preliminary discussion draft of the rule can be obtained at [www.deq.idaho.gov/rules/air/58\\_0101\\_0504\\_negotiated.cfm](http://www.deq.idaho.gov/rules/air/58_0101_0504_negotiated.cfm) or by contacting Phyllis Heitman at (208) 373-0256 or pheitman@deq.idaho.gov.

**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 the negotiated rulemaking, contact Christopher Ramsdell at (208) 373-0237 or [cramsdell@deq.idaho.gov](mailto:cramsdell@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 June 22, 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 Phyllis Heitman at (208) 373-0256 or pheitman@deq.idaho.gov.

Dated this 6th day of May 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

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

### **58.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS**

**DOCKET NO. 58-0108-0501**

#### **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 action is authorized by Chapter 1, Title 39, Idaho Code, and Chapter 21, Title 37, Idaho Code.

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

The 2005 Legislature enacted Senate Bill 1220 requiring the Department of Environmental Quality (DEQ) to establish facility design standards. DEQ has initiated this rulemaking in response to that legislation. Portions of the existing rule, and portions of documents incorporated as rule that relate to design of drinking water line extensions, will be modified to delete from the rule some items identified as guidance.

Developers, cities, counties, drinking water system owners, consultants, engineers, and the public at large may be interested in this rulemaking.

DEQ intends to conclude negotiations by July 8, 2005. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in September 2005 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in November 2005. If adopted, the pending rule will be published in January 2006 and will be reviewed by the 2006 Idaho Legislature.

**PRELIMINARY DRAFT:** By June 15, 2005, the preliminary draft rule can be obtained at [http://www.deq.idaho.gov/rules/drinking\\_water/58\\_0108\\_0501\\_negotiated.cfm](http://www.deq.idaho.gov/rules/drinking_water/58_0108_0501_negotiated.cfm) or by contacting Paula Wilson at (208) 373-0418 or [pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov).

**MEETING SCHEDULE:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meetings. The meetings will take place simultaneously and will be connected by telephone. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Tom John at (208)373-0191 or [tjohn@deq.idaho.gov](mailto:tjohn@deq.idaho.gov).

**June 22, 2005, 9 a.m. to 5 p.m. MDT**  
**Department of Environmental Quality, Conference Room C**  
**1410 N. Hilton, Boise, Idaho**

**June 22, 2005, 9 a.m. to 5 p.m. MDT**  
**Department of Environmental Quality, Portneuf River Room**  
**444 Hospital Way, Ste. 300, Pocatello, Idaho**

**June 22, 2005, 8 a.m. to 4 p.m. PDT**  
**Department of Environmental Quality, Large Conference Room**  
**2110 Ironwood Parkway, Coeur d'Alene, Idaho**

**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 the negotiated rulemaking, contact Tom John at (208) 373-0191 or [tjohn@deq.idaho.gov](mailto:tjohn@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 July 6, 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 9th day of May, 2005.

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

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

### **58.01.16 - WASTEWATER RULES**

#### **DOCKET NO. 58-0116-0501**

### **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.

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

The 2005 Legislature enacted Senate Bill 1220 requiring the Department of Environmental Quality (DEQ) to establish facility design standards. DEQ has initiated this rulemaking to create a new rule chapter in response to that legislation. In addition, DEQ proposes to address other wastewater issues for adoption in the new rule chapter. This rulemaking will include the following:

1) Move wastewater rule sections out of IDAPA 58.01.02, Water Quality Standards and Wastewater Treatment Requirements, and insert into new chapter, IDAPA 58.01.16, Wastewater Rules. The current wastewater rule sections may contain revisions necessary for inclusion in the new rule chapter.

2) Revise IDAPA 58.01.02.420, Point Source Sewage Wastewater Discharge Restrictions, by striking out Subsection 420.02, Alternative Treatment Requirements, upon moving the Section 420 language to the new rule chapter.

3) Include the new sampling frequency for E. coli for sewage treatment plant effluent that was recently developed during negotiated rulemaking in April 2005 under Docket No. 58-0102-0502, Water Quality Standards and Wastewater Treatment Requirements.

4) Create standards for design of wastewater collection system line extensions.

5) Extend wastewater land application operator compliance deadline by 12 months or until April 15, 2007 to allow sufficient time for land application operators to become licensed

6) Clarify operator licensure requirements for large soil absorption systems with multiple owners.

7) Clarify operator licensure requirements for Class A effluent distribution systems.

8) Add necessary definitions.

9) Add the standard rule sections necessary for conformance with IDAPA 44.01.01, Rules of the Administrative Rules Coordinator.

Wastewater system owners and operators, developers, consultants, engineers, cities, counties, industry, wastewater professional organizations, and the public at large may be interested in this rulemaking.

Those portions of the preliminary draft rule which have been taken directly from IDAPA 58.01.02, "Water Quality Standards and Wastewater Requirements," will not be underlined as new text. Any revisions made to those sections will be indicated using the strike-out/underline format. New rule text which has not been taken from another existing DEQ rule will be underlined. DEQ intends to limit the scope of the negotiations to that text which is underlined or struck out.

DEQ intends to conclude negotiations by July 8, 2005. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in September 2005 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in November 2005. If adopted, the pending rule will be published in January 2006 and will be reviewed by the 2006 Idaho Legislature.

**PRELIMINARY DRAFT:** By June 15, 2005, the preliminary draft rule can be obtained at [http://www.deq.idaho.gov/rules/wastewater/58\\_0116\\_0501\\_negotiated.cfm](http://www.deq.idaho.gov/rules/wastewater/58_0116_0501_negotiated.cfm) or by contacting Paula Wilson at [pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov), (208)373-0418.

**MEETING SCHEDULE:** Those interested in participating in the negotiated rulemaking process are encouraged to attend the following meetings. The meetings will take place simultaneously and will be connected by telephone. Additional meetings may be scheduled if necessary. For information regarding additional meetings, contact Mark Mason at (208)373-0266 or [mmason@deq.idaho.gov](mailto:mmason@deq.idaho.gov).

**June 21, 2005, 9 a.m. to 5 p.m. MDT**  
**Department of Environmental Quality, Conference Room C**  
**1410 N. Hilton, Boise, Idaho**

**June 21, 2005, 9 a.m. to 5 p.m. MDT**  
**Department of Environmental Quality, Snake River Room**  
**444 Hospital Way, Ste. 300, Pocatello, Idaho**

**June 21, 2005, 8 a.m. to 4 p.m. PDT**  
**Department of Environmental Quality, Large Conference Room**  
**2110 Ironwood Parkway, Coeur d'Alene, Idaho**

**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 the 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 July 6, 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 9th day of May, 2005.

Paula J. Wilson  
Environmental Quality Section  
Attorney General's Office  
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**

### **58.01.17 - WASTEWATER-LAND APPLICATION PERMIT RULES**

**DOCKET NO. 58-0117-0502**

#### **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 Title 39, Chapter 1, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved: The Wastewater-Land Application Permit Rules do not currently require the Department of Environmental Quality (DEQ) to provide public notice or an opportunity for public comment during the wastewater land application permitting process although DEQ has been providing for this. The purpose of this rulemaking is to set out in rule the public participation provisions for the permitting process which may result in the need to change the permitting schedule.

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.

DEQ intends to conclude negotiations by June 24, 2005. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment in September 2005 and then present the final proposal to the Board of Environmental Quality for adoption of a pending rule in November 2005. If adopted, the pending rule will be published in January 2006 and will be reviewed by the 2006 Idaho Legislature.

**PRELIMINARY DRAFT:** The preliminary draft rule can be obtained at [http://www.deq.idaho.gov/rules/waste\\_water/58\\_0117\\_0502\\_negotiated.cfm](http://www.deq.idaho.gov/rules/waste_water/58_0117_0502_negotiated.cfm) or by contacting Paula Wilson at [pwilson@deq.idaho.gov](mailto:pwilson@deq.idaho.gov), (208)373-0418.

**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 Rick Huddleston at (208)373-0561 or [rhuddles@deq.idaho.gov](mailto:rhuddles@deq.idaho.gov).

**June 14, 2005, 9:00 a.m.**  
**Department of Environmental Quality, Conference Room A**  
**1410 N. Hilton, Boise, Idaho**

**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 the negotiated rulemaking, contact Rick Huddleston at (208)373-0561 or [rhuddles@deq.idaho.gov](mailto:rhuddles@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 June 22, 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 9th day of May, 2005.

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

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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.

#### **IDAPA 07 - DIVISION OF BUILDING SAFETY 1090 E. Watertower St., Meridian, ID 83642**

**07-0106-0501, Rules Governing the Use of the National Electrical Code.** Incorporates by reference the 2005 edition of the National Electrical Code. Comment by: 6/22/05.

**07-0206-0501, Rules Concerning the Uniform Plumbing Code.** Deletes Section 508.2 of the 2003 Uniform Plumbing Code that is incorporated by reference. The deletion allows those jurisdictions having authority to regulate seismic strapping requirements. Comment by: 6/22/05.

**07-0701-0501, Rules Governing Installation of Heating, Ventilation and Air Conditioning Systems.** Clarifies the building codes pertaining to HVAC installations and provides consistency between statutes and rules for enforcement; establishes requirements for specialty journeyman certification and for apprentice and specialty apprentice registration. Comment by: 6/22/05.

#### **IDAPA 54 - OFFICE OF THE STATE TREASURER PO Box 83720, Boise, ID 83720-0091**

**54-0201-0501, Rules Governing the College Savings Program.** In an effort to mirror the intent of the U.S.A. Patriot Act and various federal money laundering acts, the rule changes clarify and restrict the dollar amounts and types of checks that will be accepted from parties making contributions to accounts established pursuant to the Idaho College Savings Program. Comment by: 6/22/05.

#### ***Public Meetings Have Been Scheduled for the Following Negotiated Rulemakings (See June Bulletin for Meeting Schedules)***

##### ***Dept. of Finance***

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##### ***Dept. of Insurance***

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*58-0108-0501, Idaho Rules for Public Drinking Water Systems.*  
*58-0116-0501, Wastewater Rules (New Chapter).*  
*58-0117-0502, Wastewater-Land Application Permit Rules.*

Please refer to the Idaho Administrative Bulletin, **June 1, 2005, Volume 05-6** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

**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 see our website or call (208) 332-1820 or write the Office of Administrative Rules, Department of Administration, 650 W. State St., Room 100, Boise, ID 83720-0306. Visa and MasterCard accepted for most purchases.

The Idaho Administrative Bulletin and Administrative Code are available on-line at: <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  
and includes negotiated, temporary, proposed, pending  
and final rules, public hearing notices  
and vacated rulemaking notices.**

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