

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and
Representatives DIXON, DeMordaunt, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Bureau of Occupational Licenses - Idaho State Liquefied Petroleum Gas Safety Board:
IDAPA 24.22.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking
(Docket No. 24-2201-1900F).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 07/22/2019. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 08/19/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Deputy Division Manager - Katharine Gerrity

DATE: July 02, 2019

SUBJECT: Bureau of Occupational Licenses - Idaho State Liquefied Petroleum Gas Safety Board

IDAPA 24.22.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Docket No. 24-2201-1900F)

The Bureau of Occupational Licenses submits notice of temporary and proposed rules that reauthorize and re-publish the following previously approved chapter at IDAPA 24.22.01 - Rules of the Idaho State Liquefied Petroleum Gas Safety Board.

These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation. A number of subsections/sections have been omitted from the previous chapter as follows:

010.01 - Removes a definition that is already defined in code (54-5303);
010.02 - Removes a definition that is already defined in code (54-5303);
100.01 - Requirements are already set forth in code (54-5309, 74-201, 74-208);
200 - The process described is already spelled out in code (67-2614);
225.02 - The rule is obsolete and has been since 2006 as it relates to applicants prior to July 1, 2006;
300.02 - Also obsolete for the reason set forth above.

All other changes are nonsubstantive in the nature of clean-up. No other changes from the existing rules have been noted.

This is a fee rule. According to the bureau, this rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

The rulemaking appears to be authorized pursuant to Section 54-5310, Idaho Code.

cc: Bureau of Occupational Licenses - Idaho State Liquefied Petroleum Gas Safety Board
Kelley Packer

*** PLEASE NOTE ***

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
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Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

DOCKET NO. 24-2201-1900F

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED FEE RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-5310, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

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

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.22.01, rules of the Idaho State Liquefied Petroleum Gas Safety Board:

IDAPA 24

- 24.22.01, *Rules of the Idaho State Liquefied Petroleum Gas Safety Board* - All rules *except Subsections/Sections 010.01, 010.02, 100.01, 200, 225.02, and 300.02.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the qualifications for facilities and individuals who engage in the selling, filling, refilling, transporting, delivering, or commercial handling of liquefied petroleum gas (LPG), or engage in the installation or maintenance of systems, equipment, pipes or containers for the use or storage of LPG. Allowing these rules and the standards set forth within them to expire would endanger public health, safety, and welfare.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose the licensure fees outlined in this chapter, the Idaho State Liquefied Petroleum Gas Safety Board would not be able to remain self-sufficient, contrary to its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-5313, as follows: application fee: \$30; original individual license and annual renewal fee: \$75; dealer-in-training license fee: \$50; original facility license fee and annual renewal fee: \$400; original bulk storage facility fee and annual renewal fee: \$400; and endorsement fee: \$75.

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: This rulemaking is not anticipated to have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

DATED this June 19, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**IDAPA 24
TITLE 22
CHAPTER 01**

24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

000. LEGAL AUTHORITY (RULE 0).

In accordance with Section 54-5310, Idaho Code, the Idaho State Liquefied Petroleum Gas Safety Board has promulgated rules that implement the provisions of Chapter 53, Title 54, Idaho Code. (3-30-06)

001. TITLE AND SCOPE (RULE 1).

These rules are titled IDAPA 24.22.01, “Rules of the Idaho State Liquefied Petroleum Gas Safety Board.” (3-30-06)

002. WRITTEN INTERPRETATIONS (RULE 2).

The Board may have written statements that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (3-30-06)

003. ADMINISTRATIVE APPEALS (RULE 3).

Administrative appeals are governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (3-30-06)

004. INCORPORATION BY REFERENCE (RULE 4).

The document titled Liquefied Petroleum Gas Code, 2017 Edition, commonly known as NFPA 58, published by National Fire Protection Association (NFPA), is herein incorporated by reference and is available for public inspection at the Board’s office. Copies of the 2017 Liquefied Petroleum Gas Code are available for purchase from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322. (3-29-17)

005. ADDRESS OF IDAHO LIQUEFIED PETROLEUM GAS SAFETY BOARD (RULE 5).

The office of the Idaho State Liquefied Petroleum Gas Safety Board is located within the Bureau of Occupational Licenses, 700 W. State Street, Boise, Idaho 83702. The Bureau is open between the hours of 8:00 a.m. and 5:00 p.m. each day except Saturdays, Sundays and holidays. The telephone number of the Board is (208) 334-3233. The Board’s fax number is (208) 334-3945. The Board’s e-mail address is lpg@ibol.idaho.gov. The Board’s official website is <http://www.ibol.idaho.gov>. (3-29-10)

006. PUBLIC RECORDS (RULE 6).

The records associated with the Idaho State Liquefied Petroleum Gas Safety Board are subject to the provisions of the Idaho Public Records Act. Title 74, Chapter 1, Idaho Code. (3-30-06)

007. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

01. Person. Person means any sole individual. (3-30-06)

02. Facility. Facility means any facility at a fixed location licensed pursuant to this chapter whose activities include selling, filling, refilling, or commercial handling or commercial storage of LPG. (3-30-06)

011. -- 099. (RESERVED)

100. ORGANIZATION (RULE 100).

01. Organization of the Board. At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. (3-30-06)

a. The Chairman, when present, presides at all meetings, appoints with the consent of the Board, all committees, and otherwise performs all duties pertaining to the office of Chairman. The Chairman is an ex-officio member of all committees. (3-30-06)

b. The Chief of the Bureau acts as an agent of the Board and is the official keeper of all records of the Board. The Bureau provides such services as may be authorized by Chapter 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. (3-30-06)

101. -- 149. (RESERVED)

150. APPLICATION (RULE 150).

01. Application Form. Each applicant for a license must submit a complete application on application forms approved by the Board together with the required fee(s). (3-29-10)

02. Supplemental Documents. The applicant must provide or facilitate the provision of any supplemental third party documents that may be required. (3-29-10)

03. Lack of Activity. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon thirty (30) days written notice, unless good cause is established to the Board. (3-29-10)

151. – 174. (RESERVED)

175. FEES (RULE 175).

Applications should not be filed unless the applicant can meet all requirements. (3-30-06)

01. Application Fee. Application fee - thirty dollars (\$30). (3-30-06)

02. Original Individual License and Annual Renewal Fee. License fee - seventy-five dollars (\$75). (3-29-10)

03. Dealer-in-Training License Fee. License fee - fifty dollars (\$50). (4-7-11)

04. Original Facility License Fee and Annual Renewal Fee. Facility with ten thousand (10,000) gallon or less storage capacity - one hundred dollars (\$100). (3-29-10)

05. Original Bulk Storage Facility Fee and Annual Renewal Fee. Bulk Storage Facility with more than ten thousand (10,000) gallon storage capacity - four hundred dollars (\$400). (3-29-10)

06. Endorsement Fee. Endorsement fee - seventy-five dollars (\$75). (3-29-10)

07. Reinstatement Fee. Reinstatement fee is as provided in Section 67-2614, Idaho Code. (3-24-16)

08. Refund of Fees. No refund of fees will be made to any person who has paid such fees for application or reinstatement of a license. (3-30-06)

176. – 224. (RESERVED)

225. APPROVED EDUCATION (RULE 225).

Each applicant must provide certified proof that they have successfully completed the following: (3-30-06)

01. Basic Education. The Basic Certified Employee Training Program (CETP) provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application. (3-30-06)

226. -- 249. (RESERVED)

250. PRACTICAL EXPERIENCE (RULE 250).

01. Supervised Practical Experience. Each applicant must provide certified proof that the applicant has successfully obtained at least one (1) year of practical experience in an LPG facility while the applicant was under supervision of a licensed dealer. A person in the process of meeting the practical experience requirement must complete the education and examination requirements and apply for a dealer license within eighteen (18) months of beginning to obtain supervised experience. (4-7-11)

02. Dealer-in-Training License. Effective July 1, 2011, an individual may not begin obtaining supervised practical experience until the individual has applied for and obtained a dealer-in-training license from the board. Such license is issued on a “one-time” non-renewable basis and is for the purpose of enabling the individual to gain the supervised practical experience that the person must obtain to become an LPG dealer. The dealer-in-training license is valid for eighteen (18) months from the date of issue. The applicant must apply on such forms as may be prescribed by the board, and pay the required fee. (4-7-11)

251. -- 299. (RESERVED)

300. EXAMINATIONS (RULE 300).
Each applicant must provide certified proof that they have successfully completed the following. (3-30-06)

01. Licensure Examination. Receipt of a passing grade on the Basic Certified Employee Training Program (CETP) examination provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application. (3-30-06)

301. – 349. (RESERVED)

350. FACILITY LICENSURE (RULE 350).

01. Facility Licensure and Operation Requirements. (3-30-06)

a. Application for a facility license must be made on forms available from the Bureau and must include a certificate of general liability insurance set forth in these rules and plans and specifications complying with local ordinances and zoning requirements. All applications must be submitted to the Board for approval and a license must be issued before a new facility may open for business; (4-2-08)

b. Each facility application must clearly identify and designate a location adequate to allow the facilities safe operation and the selling, filling, refilling, or commercial handling or commercial storage of liquefied petroleum gas; (3-30-06)

c. Each facility must meet all requirements of NFPA 58. (3-30-06)

02. Facility Changes in Ownership or Location. (3-30-06)

a. Whenever a change of ownership or location of a facility occurs, an original application must be submitted, the fee must be paid and compliance with all rules concerning a new facility documented, before a new license will be issued. FACILITY LICENSES ARE NOT TRANSFERABLE. (3-30-06)

b. Deletion of an owner from multiple ownership does not constitute a change in ownership. (3-30-06)

c. Addition of an owner to multiple ownership does constitute a change in ownership. (3-30-06)

d. Whenever any facility ceases operation at the licensed location, the owner(s) must notify the Board in writing that the facility is out of business and the facility license must be submitted to the Bureau. A new facility license will not be issued for any location that is currently licensed as a facility at the time of application. (3-30-06)

351. -- 354. (RESERVED)

355. GENERAL LIABILITY INSURANCE REQUIREMENT (RULE 355).

As set forth in 54-5308(1)(j), Idaho Code, no facility license will be issued without a certificate showing proof of a current general liability insurance policy in the sum of not less than one million dollars (\$1,000,000) for an occurrence. (4-2-08)

01. Original Facility License Application. An application for facility license will not be considered complete without a certificate of general liability insurance showing a current policy. The policy must be kept in full force and effect. (4-2-08)

02. Renewal of Facility License. All licenses being renewed must certify that the facility holds a current general liability insurance policy. (4-2-08)

03. Audit of Liability Insurance. The Board may conduct random audits of facility licenses and request documentation of a current general liability insurance policy. (4-2-08)

356. -- 374. (RESERVED)

375. INSPECTION RULES (RULE 375).

All facilities are subject to inspection by the Board or its agents at any time without notice to insure the safe operation of each facility and to insure continued compliance with the requirements of NFPA 58 and the Idaho laws and rules. The Board may adopt a form which establishes for the facility those material rules of NFPA 58 which will be inspected, and a level of compliance necessary for issuance or retention of a license or disciplinary action. The Board may further determine the time frame a facility may be granted in order to comply with NFPA 58, but still continue to operate, or pursue disciplinary action for a failure to comply. (4-2-08)

376. -- 399. (RESERVED)

400. ENDORSEMENT (RULE 400).

Any person who holds a current, unsuspended, unrevoked or otherwise nonsanctioned license in another state or country that has licensing requirements substantially equivalent to or higher than those in Idaho may, submit the required application, supporting documentation, and required fee, for Board consideration. Those applicants who received their professional education or experience outside of the United States must provide such additional information concerning their professional education or experience as the Board may request. The Board may, in its discretion, require successful completion of additional course work or examination for any applicant under this provision. (3-30-06)

401. -- 449. (RESERVED)

450. DISCIPLINE (RULE 450).

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed LPG dealer or a licensed LPG facility for each violation of Section 54-5315, Idaho Code. (3-30-06)

02. Costs and Fees. The Board may order a licensed LPG dealer or a licensed LPG facility to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-5315, Idaho Code. (3-30-06)

451. -- 999. (RESERVED)