

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

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Division of Building Safety:

IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning  
Systems, Division of Building Safety - Proposed Rule (Docket No. 07-0701-1601);

IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventillation, and Air Conditioning  
Systems, Division of Building Safety - (Fee Rule) Proposed Rule (Docket No.  
07-0701-1602).

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 10/25/2016. 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 11/23/2016.

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

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

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

**FROM:** Principal Legislative Research Analyst - Ryan Bush

**DATE:** October 5, 2016

**SUBJECT:** Division of Building Safety

IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety - Proposed Rule (Docket No. 07-0701-1601)

IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventillation, and Air Conditioning Systems, Division of Building Safety - (Fee Rule) Proposed Rule (Docket No. 07-0701-1602)

#### **(1) Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety - Proposed Rule (Docket No. 07-0701-1601)**

The Division of Building Safety submits notice of proposed rulemaking at IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety. The Division is updating its incorporation by reference of the International Mechanical Code to differentiate between light-duty and medium-duty cooking appliances. The Division states that this is to ease requirements for pizza ovens. This proposed rule also allows the Division to produce written interpretations of rules.

The Division states that negotiated rulemaking was conducted and that notice was published in the June edition of the Idaho Administrative Bulletin, Vol. 16-6, pages 18-19. There is no fiscal impact anticipated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Division in Section 54-5005, Idaho Code.

#### **(2) Rules Governing Installation of Heating, Ventillation, and Air Conditioning Systems, Division of Building Safety - (Fee Rule) Proposed Rule (Docket No. 07-0701-1602)**

The Division of Building Safety submits notice of a proposed fee rule at IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety - (Fee Rule). The proposed rule would allow an out of state HVAC journeyman to obtain a certificate of competency if they meet certain experience and schooling requirements. This rule would also allow a permit holder to receive a refund of a permit fee obtained in error and allow for the transfer of a permit along with a forty-five (\$45) dollar fee.

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

The Division states that negotiated rulemaking was not conducted because the rule change is simple in nature. There is no fiscal impact anticipated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Division in Section 54-5005, Idaho Code.

cc: Division of Building Safety  
Steve Keys

## IDAPA 07 - DIVISION OF BUILDING SAFETY

### 07.07.01 - RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS, DIVISION OF BUILDING SAFETY

DOCKET NO. 07-0701-1601

#### 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 and 54-5005, 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 October 19, 2016.

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:

Currently, electric and gas conveyor pizza ovens are defined as a "Medium-Duty Cooking Appliance" which requires the installation of a Type I hood. These pizza ovens do not produce enough smoke and grease to justify a Type I hood. Accordingly, by removing pizza ovens from the definition of "Medium-Duty Cooking Appliance" and redefining them as a "Light-Duty Cooking Appliance," only a Type II hood would be required to be installed. This is less expensive than a Type I hood and the installation requirements are less restrictive. Additionally, some manufacturers are already selling the ovens with Type II hoods as a single unit. These would not be allowed under the current code. Finally, the Division would like the ability to produce written interpretations of the rules in the event that it is advisable to do so in order to provide clarity or direction to those making HVAC installations. Such written interpretations would be available for public inspection and copying.

**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 Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 1, 2016 Idaho Administrative Bulletin, [Vol. 16-6, pages 18-19](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The formerly adopted and incorporated by reference International Mechanical Code, 2012 Edition, is being amended. Currently, electric and gas conveyor pizza ovens are defined as a "Medium-Duty Cooking Appliance" which requires the installation of a Type I hood. These pizza ovens do not produce enough smoke and grease to justify a Type I hood. Accordingly, by moving pizza ovens out of the definition of "Medium-Duty Cooking Appliance" into the definition of "Light-Duty Cooking Appliance" they would only require a Type II hood to be installed, which is less expensive and less restrictive than a Type I hood. Additionally, some manufacturers are already selling the ovens with Type II hoods as a single unit, which would not be allowed under the current code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator – Operations, at (208) 332-8986.

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 October 26, 2016.

DATED this 23rd day of August, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83542  
Phone: (208) 332-8986  
Fax: (877) 810-2840

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0701-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201, Idaho Code, this agency ~~has no~~ may have written statements that pertain to the interpretations of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at the Idaho Division of Building Safety offices. (3-16-04)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL MECHANICAL CODE, 2012 EDITION.**

**01. International Mechanical Code.** The 2012 Edition, including appendix “A,” (herein IMC) is adopted and incorporated by reference with the following amendments: (3-20-14)

**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. (4-11-06)

**b.** All references to the International Plumbing Code (IPC) shall be construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)

**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. (4-11-06)

**d.** Section 109. Delete. (7-1-10)

**e.** Section 202 Definitions. Delete the definitions provided in the code for the terms identified herein this paragraph and replace with the following: ( )

**i.** Light-Duty Cooking Appliance. Light-duty cooking appliances include gas and electric ovens (including standard, bake, roasting, revolving, retherm, convection, combination convection/steamer, countertop conveyerized baking/finishing, deck, pastry, and electric and gas conveyor pizza ovens), electric and gas steam jacketed kettles, electric and gas pasta cookers, electric and gas compartment steamers (both pressure and atmospheric) and electric and gas cheesemelters. ( )

**ii.** Medium-Duty Cooking Appliance. Medium-duty cooking appliances include electric discrete element ranges (with or without oven), electric and gas hot-top ranges, electric and gas griddles, electric and gas double sided griddles, electric and gas fryers (including open deep fat fryers, donut fryers, kettle fryers and pressure

fryers), electric and gas tilting skillets (braising pans) and electric and gas rotisseries. ( )

**ef.** Section 401.1 Scope. Add the following: Exception: The principles specified in ASHREA 62-2010 may be used as an alternative to this chapter to demonstrate compliance with required ventilation air for occupants. (4-7-11)

**fg.** Section 504.6.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

**gh.** Table 603.4 Duct Construction Minimum Sheet Metal Thickness for Single Dwelling Units. Add the following exception to the Table: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

**02. Availability of the International Mechanical Code.** The 2012 Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642, 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. (3-20-14)

## **INCORPORATION BY REFERENCE SYNOPSIS**

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

**DIVISION OF BUILDING SAFETY**  
**IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air**  
**Conditioning Systems, Division of Building Safety**  
**Proposed Rulemaking - Docket No. 07-0701-1601**

The formerly adopted and incorporated by reference International Mechanical Code, 2012 Edition, is being amended. Currently, electric and gas conveyer pizza ovens are defined as a Medium-Duty Cooking Appliance which requires the installation of a Type I hood. These pizza ovens do not produce enough smoke and grease to justify a Type I hood. Accordingly, by moving pizza ovens out of the definition of Medium-Duty Cooking Appliance into the definition of Light-Duty Cooking Appliance they would only require a Type II hood to be installed, which is less expensive and less restrictive than a Type I hood. Additionally, some manufacturers are already selling the ovens with Type II hoods as a single unit, which would not be allowed under the current code.

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

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

#### **DOCKET NO. 07-0701-1602 (FEE RULE)**

#### **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 and 54-5005, 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 October 19, 2016.

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 construction industry in Idaho is facing a critical shortage of skilled workers, including HVAC workers. As it currently stands, many HVAC workers come to Idaho from states that do not require schooling. This leaves them unable to qualify for testing as a journeymen in Idaho. This rulemaking would allow such a person to qualify to take the journeyman's exam by demonstrating they have eight (8) years of HVAC experience, in lieu of the current requirement of four (4) years' experience and four (4) years of schooling.

Currently, there is no mechanism for a HVAC contractor or homeowner to transfer a HVAC permit to a new contractor, if after the commencement of a HVAC installation the property owner terminates its relationship with the original contractor and hires a new contractor. In such instances, the new contractor or homeowner must purchase a new permit. There is also no mechanism for a permit holder to receive a refund of a permit fee that may have been obtained in error, or for which HVAC work was never commenced or only progressed minimally. In such instances, the holder never recoups their fee for work that may never have been completed, and for which the Division has never provided an inspection.

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

A fee of forty-five dollars (\$45) will be imposed on those who desire to transfer a HVAC permit from one eligible party to another. The fee is authorized pursuant to Sections 54-5005(1) and 67-2601A(5)(e), Idaho Code.

**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:

The fee itself is expected to be neutral to the Division and the HVAC dedicated fund inasmuch as the fee imposed by the Division for administering the transfer of a HVAC permit to a new permit holder is expected to cover the administrative costs to the Division in processing the request. The effect of the fee would only have a negligible adverse effect on the dedicated HVAC Board fund due to a slight decrease in fees previously paid for new permits that will no longer be required. The impact to the permit holder desiring to transfer a permit would be a one-time fee of forty-five dollars (\$45); however, the fee is expected to be significantly less expensive than securing an entirely new HVAC permit.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature.

HVAC contractors in Idaho as well as qualified and experienced HVAC workers from other states seeking employment in Idaho have communicated with the Division and HVAC Board the need to modify the journeyman rules relating to the licensure of out-of-state individuals. The issue was brought to the HVAC Board by interested parties numerous times over the past several years and no opposition to the proposed rule was expressed to the Board.



The rulemaking is also advantageous to contractors and property owners who would be able to transfer a HVAC permit to a new contractor at significantly less expense than securing a new permit. It also creates the ability to refund to purchasers of a permit the permit fee, or portion thereof for those HVAC projects on which work is never commenced or has not progressed beyond fifty percent (50%) completion. This rulemaking was discussed at several HVAC Board meetings over the course of the last year without opposition.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator – Operations, at (208) 332-8986.

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 October 26, 2016.

DATED this 23rd day of August, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83542  
Phone: (208) 332-8986  
Fax: (877) 810-2840

**THE FOLLOWING IS THE PROPOSED FEE RULE TEXT OF DOCKET NO. 07-0701-1602**  
**(Only Those Sections With Amendments Are Shown.)**

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

**01. 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 supervision of a qualified HVAC journeyman. (4-11-06)

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

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

**04. Out of State Journeyman Applications.** ( )

**a. Exhibition of a license issued by another recognized jurisdiction may be accepted as proof of meeting the experience and schooling requirements listed in Subsections 023.01 and 023.02 of these rules. An application for a journeyman certificate of competency from an individual previously licensed as a journeyman in another jurisdiction recognized by the Idaho HVAC Board shall include satisfactory proof of licensure in such jurisdiction. The applicant shall pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division.** ( )

**b.** An application for a journeyman certificate of competency from an individual who has never been previously licensed as a journeyman in a jurisdiction recognized by the Idaho HVAC Board shall include evidence that demonstrates that the applicant has four (4) years, defined as eight thousand (8,000) hours of HVAC work experience or a nature at least equivalent to that which a HVAC apprentice must perform in Idaho, as well as four (4) years of schooling equivalent to that which a HVAC apprentice must complete in Idaho. Alternatively, such an applicant may submit sufficient proof verifying eight (8) years, defined as a minimum of sixteen thousand (16,000) hours of HVAC work experience of a nature at least equivalent to that which a HVAC apprentice must perform in Idaho. Upon submission of sufficient proof of having completed such experience and schooling requirements, such applicant shall also pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. HVAC PERMITS.**

**01. Serial Number.** Each permit shall bear a serial number. (3-16-04)

**02. HVAC Contractors and HVAC Specialty Contractors.** The Division shall furnish permits to certified HVAC contractors and HVAC specialty contractors upon request. The serial numbers of such permits shall be registered in the name of the HVAC contractor or HVAC specialty contractor to whom they are issued. Permits shall not be transferable. (3-16-04)

**03. Home Owners.** Home owners or a contract purchaser of residential property, making HVAC installations on their own residences, coming under the provisions of Section 54-5002, Idaho Code, shall secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)

**04. HVAC Contractors and HVAC Specialty Contractors.** HVAC contractors and HVAC specialty contractors shall secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)

**05. Transferring a Permit.** A HVAC permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself as well as assignment of all the responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the HVAC work is to be performed and for which the permit was issued for such owners' designated legal agent, in cases where the property owner has terminated their legal relationship with the HVAC contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars (\$45) for the transfer of a permit shall be assessed by the Division. ( )

**06. Refunds of Permits.** The administrator may authorize a refund for any permit fee paid on the following bases: ( )

**a.** The administrator may authorize a refund of the entire permit fee paid when no work has been performed related to the installations or HVAC work covered by a permit issued by the Division. A lesser amount up to fifty percent (50%) of the permit fee amount may be refunded if work has commenced and the project is less than fifty percent (50%) complete as determined by the Division; and ( )

**b.** The administrator shall not authorize a refund of any permit fee paid except upon written application for such filed by the original permit holder or the property owner's representative not less than one hundred eighty (180) days after the date the permit was issued. ( )

## PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

**Department or Agency:** Division of Building Safety

**Agency Contact:** Steve Keys, Deputy Administrator - Operations **Phone:** (208) 332-8986

**Date:** Aug 15, 2016

**IDAPA, Chapter and Title Number and Chapter Name:** IDAPA 07.07.01 – Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety

**Fee Rule Status:**      **Proposed**                      **Temporary**

**Rulemaking Docket Number:** Docket No. 07-0701-1602

### STATEMENT OF ECONOMIC IMPACT:

The economic impact of the fee itself to the Division and the HVAC dedicated fund is expected to be neutral inasmuch as the fee imposed by the Division for administering the transfer of a HVAC permit to a new permit holder is expected to cover the administrative costs to the Division in processing the request. The effect of the fee would only have a negligible adverse effect on the dedicated HVAC Board fund due to a slight decrease in fees previously paid for new permits that will no longer be required. The impact to the permit holder desiring to transfer a permit would be a one-time fee of forty-five dollars (\$45); however, the fee is expected to be significantly less expensive than securing an entirely new HVAC permit.