

Dear Senators MARTIN, Riggs, Stennett, and
Representatives EHARDT, Wisniewski, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Division of Occupational and Professional Licenses - Board of Drinking Water and Wastewater Professionals:

IDAPA 24.05.01 - Rules of the Board of Drinking Water and Wastewater Professionals Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 24-0501-2200F).

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 11/10/2022. 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 12/08/2022.

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.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Environment, Energy & Technology Committee

FROM: Deputy Division Manager - Katharine Gerrity

DATE: October 25, 2022

SUBJECT: Division of Occupational and Professional Licenses - Board of Drinking Water and Wastewater Professionals

IDAPA 24.05.01 - Rules of the Board of Drinking Water and Wastewater Professionals Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 24-0501-2200F)

Summary and Stated Reasons for the Rule

The Division of Occupational and Professional Licenses - Board of Drinking Water and Wastewater Professionals submits notice of proposed rule at IDAPA 24.05.01 - Rules of the Board of Drinking Water and Wastewater Professionals. According to the Board, rule 300.04 has been amended to expand opportunity to attend an apprenticeship in lieu of post high school education and an outdated rule reference has been removed in rule 400. This is a fee rule. However, the board notes that the rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in prior rules.

Negotiated Rulemaking / Fiscal Impact

The board states that negotiated rulemaking was not conducted 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. The board does not anticipate a fiscal impact as a result of the rulemaking.

Statutory Authority

The rulemaking appears authorized pursuant to Sections 67-2604 and 54-2406, Idaho Code.

cc: Division of Occupational and Professional Licenses - Board of Drinking Water and Wastewater Professionals

Russ Barron

*** PLEASE NOTE ***

Paul Headlee, Deputy Director Legislative Services Office	Kristin Ford, Manager Research & Legislation	Keith Bybee, Manager Budget & Policy Analysis	April Renfro, Manager Legislative Audits	Glenn Harris, Manager Information Technology
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Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

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 24.05 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES
24.05.01 – RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS
DOCKET NO. 24-0501-2200F (FEE RULE)
NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULEMAKING

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-2604 and Section 54-2406, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

Tuesday, October 25, 2022 – 2:00 p.m. (MT)
Division of Occupational and Professional Licenses Chinden Campus Building 4 – Eagle Rock Room 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714

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:

This proposed rulemaking publishes the following rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 24, rules of the Division of Occupational and Professional Licenses / Board of Drinking Water and Wastewater Professionals:

IDAPA 24.05

- 24.05.01, *Rules of the Board of Drinking Water and Wastewater Professionals*. (Rule 300.04 amended to expand opportunity to attend an apprenticeship in lieu of post high school education and removed outdated rule referenced in Rule 400).

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

The following is a specific description of the fees or charges:

24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals – Fees are established in accordance with Section 54-2407, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$25
Examination	Amount set by examination provider
Endorsement	\$30
Original License	\$30
Annual renewal	\$30

FEE TYPE	AMOUNT (Not to Exceed)
Reinstatement	As provided in Section 67-2614, 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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2023 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 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 proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule(s), contact Tim Frost at (208) 577-2491 or tim.frost@dopl.idaho.gov.

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 October 5, 2022.

Tim Frost, Deputy Administrator
Division of Occupational & Professional Licenses
Phone: (208) 577-2491
11341 W. Chinden Boulevard, Building #4
Boise, ID 83714
P.O. Box 83720
Boise, ID 83720-0063
tim.frost@dopl.idaho.gov

**THE FOLLOWING IS THE PROPOSED TEXT OF OMNIBUS FEE DOCKET NO. 24-0501-2200F
(New Chapter)**

24.05.01 – RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-2406, Idaho Code.

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001. SCOPE.

These rules govern the practice of drinking water operators, wastewater operators, and backflow assembly testers.

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002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Class I Restricted License. Class I restricted license means a water or wastewater license associated with a specific class I system. A restricted license is available for water distribution or treatment or for wastewater collection or treatment. A restricted license is not transferable and does not qualify for endorsement.

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02. DEQ. The Idaho Department of Environmental Quality.

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03. Direct Supervision. Supervision in a way that will ensure the proper operation and maintenance of the public drinking water or public wastewater system. Supervision shall include, but not be limited to, providing written, hands-on, or oral instruction as well as verification that the instructions are being completed. The supervisor has an active on-site or on-call presence at the specific facility.

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04. Endorsement. Endorsement (often referred to as “reciprocity”) is that process by which a person licensed in another jurisdiction may apply for a license in Idaho.

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05. EPA. The United States Environmental Protection Agency.

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06. Experience. One (1) year of experience is based upon a minimum of one thousand six hundred hours (1,600) worked.

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07. On-Site Operating Experience. On-site operating experience means experience obtained while physically present at the location of the system.

()

08. Operating Personnel. Operating personnel means any person who is employed, retained, or appointed to conduct the tasks associated with the day-to-day operation and maintenance of a public drinking water system or a public wastewater system. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health.

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09. Person. A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity.

()

10. Responsible Charge Operator. An operator of a public drinking water system or wastewater system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system or wastewater classification, who is in responsible charge of the public drinking water system or the wastewater system.

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11. Substitute or Back-Up Responsible Charge Operator. An operator of a public drinking water or wastewater system who holds a valid license at a class equal to or greater than the drinking water or wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible.

()

12. Very Small Public Drinking Water System. A community or non-transient non-community public water system that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers).

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13. Very Small Wastewater System. A public wastewater system that serves five hundred (500)

connections or less and includes a collection system with a system size of six (6) points or less on the Department of Environmental Quality (DEQ) system classification rating form and is limited to only one (1) of the following wastewater treatment processes: ()

- a. Aerated lagoons: ()
- b. Non-aerated lagoon(s); ()
- c. Primary treatment; or ()
- d. Primary treatment discharging to a large soil absorption system (LSAS). ()

011. -- 149. (RESERVED)

150. APPLICATION.

Each applicant for licensure must submit a complete application together with the required fees. The applicant must provide or facilitate the provision of any supplemental third party documents that may be required. The Board will not review an application until all required information is furnished and the required fees paid. ()

01. Licensure by Examination. An application is made on the uniform application form adopted by the Board and furnished to the applicant by the Division. All applications will include: ()

- a. Documentation of having met the appropriate educational requirement; ()
- b. Documentation of all actual applicable experience giving kind and type of work done, together with dates of employment, and verification by affidavit of the most current applicable experience, signed by the person under whose supervision the work was performed. ()

02. Licensure by Endorsement. An application is made on the uniform application form adopted by the Board and furnished to the applicant by the Division. All applications must include: ()

- a. Official documentation of licensure sent to the Division directly from each regulatory authority from which the applicant has obtained licensure. Documentation will include name, address, current status, date originally issued, expiration date, and any disciplinary action imposed; ()
- b. A copy of the current regulations governing licensure in each jurisdiction from which the applicant obtained licensure. ()

03. Application Required. Applicants seeking licensure in any type or classification of licensure must submit a separate application for each type and classification of licensure being sought. Applicants holding a current type and classification of license and who are seeking a classification upgrade within the same license type and category are not required to submit an original license fee with their application. ()

151. -- 174. (RESERVED)

175. LICENSE TYPES AND CLASSIFICATIONS.

The Board issues the following licenses under the provisions of Chapter 24, Title 54, Idaho Code. ()

- 01. Drinking Water Distribution Operator.** ()
 - a. Class Operator-In-Training, Class I Restricted, Class I, Class II, Class III, or Class IV. ()
- 02. Drinking Water Treatment Operator.** ()
 - a. Class Operator-In-Training, Class I Restricted, Class I, Class II, Class III, or Class IV. ()
- 03. Wastewater Treatment Operator.** ()

- a. Class Operator-In-Training, Lagoon, Class I Restricted, Class I, Class II, Class III, Class IV, or Land Application. ()
- 04. Wastewater Collection Operator.** ()
- a. Class Operator-In-Training, Class I Restricted, Class I, Class II, Class III, or Class IV. ()
- 05. Wastewater Laboratory Analyst.** ()
- a. Class I, Class II, Class III, or Class IV. ()
- 06. Backflow Assembly Tester.** ()
- 07. Drinking Water Very Small System Operator.** ()
- 08. Wastewater Very Small System Operator.** ()

176. -- 199. (RESERVED)

200. FEES FOR EXAMINATION AND LICENSURE.

Application and examination fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$25
Examination	Amount set by examination provider
Endorsement	\$30
Original License	\$30
Annual renewal	\$30
Reinstatement	As provided in Section 67-2614, Idaho Code

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201. -- 249. (RESERVED)

250. LICENSE REQUIRED -- SCOPE OF PRACTICE.

All water and wastewater operating personnel, including those in responsible charge and those in substitute responsible charge, of public water systems and public wastewater systems, and all backflow assembly testers, shall be licensed under the provisions of these rules and Chapter 24, Title 54, Idaho Code. ()

01. Drinking Water Operator Scope. Operating personnel shall only act in accordance with the nature and extent of their license. Those in responsible charge or substitute responsible charge of a public water system must hold a valid license equal to or greater than the classification of the public water system where the responsible charge or substitute responsible charge operator is in responsible charge. The types of water systems are distribution and treatment. ()

02. Wastewater Operator Scope. Operating personnel may only act in accordance with the nature and extent of their license. Those in responsible charge or substitute responsible charge of a public wastewater system must hold a valid license equal to or greater than the classification of the public wastewater system where the responsible charge or substitute responsible charge operator is in responsible charge. The types of wastewater systems are collection, laboratory analyst, and treatment. ()

03. Backflow Assembly Tester. Individuals licensed as backflow assembly testers may inspect and test backflow prevention assemblies as defined in Title 54, Chapter 24, Idaho Code. ()

04. Operator-in-Training. Operators-in-training may practice only under the direct supervision of a licensed operator of a type, category, and classification higher than operator-in-training. No operator-in-training can accept or perform the designated responsible charge duties at any system. ()

251. -- 299. (RESERVED)

300. GENERAL REQUIREMENTS FOR LICENSE.

Applicants must submit an application together with the required fees and required documentation. ()

01. Examination Requirement. Applicants must pass a written examination for each individual classification in each type of licensure with a minimum score of seventy percent (70%). ()

a. The examination will reflect different levels of knowledge, ability and judgment required for the established license type and class. The Board will administer examinations at such times and places as the Board may determine. ()

b. The examination for all types and classes of licensure will be validated and provided by the Association of Boards of Certification (ABC). The American Backflow Prevention Association (ABPA) backflow assembly tester examination is also approved for backflow assembly tester licensure. ()

c. Applicants who fail an examination must make application to retake the same type and class examination and pay the required examination fees prior to retaking the examination. ()

d. Applicants must take and pass the examination within one (1) year of application approval. After one (1) year a new application and applicable fees must be submitted. ()

02. Education Requirements. Documentation must be provided showing proof of education required for the type and level of license being sought. ()

03. Experience Requirement. Only actual verified on-site operating experience at a treatment, distribution or collection system will be acceptable except as may be allowed by substitution as set forth in these rules. Experience as a laboratory analyst can be counted as wastewater operating experience for up to one-half (1/2) of the wastewater operating experience requirement but cannot be counted as responsible charge experience. Experience as a wastewater operator can be counted as laboratory analyst experience for up to one-half (1/2) of the laboratory analyst experience. Applicants may not receive more than one (1) year of experience for hours worked in excess of one thousand six hundred (1,600) hours in a calendar year unless specifically approved by the Board based upon documentation submitted by the Applicant. ()

04. Apprenticeship Program. The Board may approve Apprenticeship Programs that are designed to provide either experience or experience and education for individuals seeking licensure in Idaho as an Operator-In-Training, or a Class I, II, III, or IV Water or Wastewater Operator. A basic Apprenticeship Program is designed to provide hands on experience and education related to the operation of Class I and II facilities. An advanced Apprenticeship Program is designed to provide hands on experience and education related to Class III and IV facilities. All approved Apprenticeship Programs will be registered with the U.S. Department of Labor, Office of Apprenticeship, meet the Standards of Apprenticeship developed by the U.S. Department of Labor and meet the intent of these rules regarding the education and experience necessary for Operator-In-Training, Class I, II, III, and IV licensure. Sponsors of Apprenticeship Programs must seek Board approval by application along with all supporting documentation necessary to establish the program meets the intent of these rules regarding education and experience. The Board may revoke the approval of any program that fails to comply with the Board's rules. ()

301. -- 309. (RESERVED)

310. REQUIREMENTS FOR OPERATOR-IN-TRAINING LICENSE.

Each applicant for an Operator-In-Training License must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Examination. Pass the relevant Class I examination or be enrolled in an Apprenticeship Program approved by the Board. ()

311. -- 314. (RESERVED)

315. REQUIREMENTS FOR A VERY SMALL WATER SYSTEM LICENSE.

To qualify for a Very Small Water System license an operator must meet the following requirements: ()

01. Education. Possess a high school diploma or GED and; ()

02. Experience. Document eighty-eight (88) hours of acceptable on-site operating experience at a water system; and ()

a. Complete an approved six-hour water treatment course or an approved six-hour chlorination course or a combination of said approved courses equaling six (6) hours; and ()

b. Complete an approved six-hour water distribution course; and ()

03. Examination. Pass the relevant very small water system examination. ()

316. -- 319. (RESERVED)

320. REQUIREMENTS FOR A VERY SMALL WASTEWATER SYSTEM LICENSE.

To qualify for a Very Small Wastewater System license, an operator must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document fifty (50) hours of acceptable on-site operating experience at a wastewater collection system; and ()

a. Fifty (50) hours of acceptable relevant on-site operating experience at a wastewater treatment system or lagoon; and ()

b. Complete an approved six-hour pumps and motors course or an approved six-hour collection course or a combination of said approved courses equaling six (6) hours; and ()

c. Complete an approved six-hour lagoon operation and maintenance course; or an approved six-hour large soil absorption system course or an approved six-hour wastewater treatment course or a combination of said approved courses equaling six (6) hours; and ()

03. Examination. Pass the relevant lagoon examination. ()

321. -- 324. (RESERVED)

325. REQUIREMENTS FOR CLASS I RESTRICTED WATER OR WASTEWATER LICENSE.

To qualify for a Class I Restricted water or wastewater license an operator must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document two hundred sixty (260) hours of acceptable relevant on-site operating experience during twelve (12) consecutive months with the system and complete sixteen (16) hours of continuing education relevant to the license; and ()

03. Examination. Pass the relevant Class I examination. ()

04. Restricted License Upgrade. Upon obtaining one thousand six hundred (1,600) hours of supervised on-site operating experience for each license, the operator shall be eligible to apply for an unrestricted Class I license. There is no limit on the amount of time needed to obtain the necessary experience to qualify for the unrestricted license. A restricted license is limited to a specific system. ()

326. -- 327. (RESERVED)

328. REQUIREMENTS FOR A CLASS I OPERATOR LICENSE.

To qualify for a Class I operator license an applicant must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document one (1) year of acceptable relevant on-site operating experience at a Class I or higher system or successfully complete one (1) year of an Approved Apprenticeship Program; and ()

03. Examination. Pass the relevant Class I examination. ()

329. (RESERVED)

330. REQUIREMENTS FOR A CLASS II OPERATOR LICENSE.

To qualify for a Class II license an applicant must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document three (3) years of acceptable relevant on-site operating experience at a Class I or higher system or successfully complete an Approved Apprenticeship Program; and ()

03. Examination. Pass the relevant Class II examination. ()

331. -- 334. (RESERVED)

335. REQUIREMENTS FOR A CLASS III OPERATOR LICENSE.

To qualify for a Class III license an applicant must meet the following requirements: ()

01. Education. Possess a high school diploma or GED and two (2) years of post-high school education in the environmental control field, engineering or related science or successful completion of an Approved Apprenticeship Program; and ()

02. Experience. Document four (4) years of acceptable relevant on-site operating experience, including two (2) years of responsible charge of a major segment of a system in the same or next lower class, of a Class I or higher system for collection or distribution or Class II or higher system for treatment; and ()

03. Examination. Pass the relevant Class III examination. ()

336. -- 339. (RESERVED)

340. REQUIREMENTS FOR A CLASS IV OPERATOR LICENSE.

To qualify for a Class IV license an applicant must meet the following requirements; ()

01. Education. Possess a high school diploma or GED and four (4) years of post-high school education in the environmental control field, engineering or related science; and ()

02. Experience. Document four (4) years of acceptable relevant on-site operating experience, including two (2) years of responsible charge of a major segment of a system in the same or next lower class, at a

Class I or higher system for collection or distribution or Class III or higher system for treatment; and ()

03. Examination. Pass the relevant Class IV examination. ()

341. -- 344. (RESERVED)

345. REQUIREMENTS FOR A LAGOON OPERATOR LICENSE.

To qualify for a lagoon license, an operator must meet the following requirements; ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document twelve (12) consecutive months of acceptable on-site operating experience at a Lagoon system; and ()

03. Examination. Pass the relevant Lagoon examination. ()

346. -- 349. (RESERVED)

350. REQUIREMENTS FOR A WASTEWATER LAND APPLICATION LICENSE.

To qualify for a Wastewater Land Application license, an operator must meet the following requirements: ()

01. Education. Possess a high school diploma or GED; and ()

02. Experience. Document a minimum six (6) months of on-site operating experience at a wastewater land application system; and ()

03. Examination. Pass the relevant Wastewater Land Application examination; and ()

04. Other. Possess a wastewater Class I or higher operation license. The wastewater land application operator that is a responsible charge or substitute responsible charge operator must be licensed at the type and class equal to or greater than the classification of the wastewater system. ()

351. -- 354. (RESERVED)

355. REQUIREMENTS FOR A BACKFLOW ASSEMBLY TESTER LICENSE.

To qualify for a backflow assembly tester license, an applicant must meet the following requirements: ()

01. Education. Possess a high school diploma or GED, and ()

02. Experience. Document successful completion of a Board-approved backflow assembly tester training program in compliance with the Cross Connection Control Accepted Procedure and Practice Manual and consisting of theory instruction, practical instruction, and a practical examination in compliance with the USC Test procedures; and ()

03. Examination. Pass the relevant Backflow Assembly Tester examination. ()

356. -- 359. (RESERVED)

360. REQUIREMENTS FOR WASTEWATER LABORATORY ANALYST LICENSE.

To qualify for a wastewater laboratory analyst license, an applicant must meet the following requirements for the relevant class: ()

01. Class I. ()

a. Possess a high school diploma or GED; and ()

b. Document one (1) year of acceptable lab experience at a class I or higher system; and ()

- c. Pass the relevant class I laboratory analyst examination. ()
- 02. Class II.** ()
 - a. Possess a high school diploma or GED; and ()
 - b. Document three (3) years of acceptable lab experience at a class I or higher system; and ()
 - c. Pass the relevant class II laboratory analyst examination. ()
- 03. Class III.** ()
 - a. Possess a high school diploma or GED and two (2) years of post-high school education in the environmental control field, engineering or related science; and ()
 - b. Document four (4) years of acceptable lab experience at a class II or higher system; and ()
 - c. Pass the relevant class III laboratory analyst examination. ()
- 04. Class IV.** ()
 - a. Possess a high school diploma or GED and four (4) years of post-high school education in the environmental control field, engineering or related science; and ()
 - b. Document four (4) years of acceptable lab experience at a class III or higher system; and ()
 - c. Pass the relevant class IV laboratory analyst examination. ()

361. -- 374. (RESERVED)

375. SUBSTITUTIONS.

- 01. Substituting Education for Experience.** Applicants may substitute approved education for operating and responsible charge experience as specified below. ()
 - a. No substitution for on-site operating experience shall be permitted for licensure as a very small system operator or a Class I operator. ()
 - b. For Classes II, III and IV, substitution shall only be allowed for the required experience when fifty percent (50%) of all stated experience (both on-site operating and responsible charge) has been met by actual on-site operating experience. ()
 - c. For Class II, a maximum of one and one-half (1½) years of post-high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience. ()
 - d. For Class III and IV, a maximum of two (2) years of post-high school education in the environmental control field, engineering or related science may be substituted for two (2) years of on-site operating experience; however the applicant for Class III must still have one (1) year of responsible charge experience and the applicant for Class IV must have two (2) years of responsible charge experience. ()
 - e. Education substituted for on-site operating experience may not be also credited toward the education requirement. ()
 - f. One (1) year of post-high school education may be substituted for one (1) year experience up to a

maximum of fifty percent (50%) of the required on-site operating or responsible charge experience. ()

02. Substituting Experience for Education. Where applicable, approved on-site operating and responsible charge experience may be substituted for education as specified below: ()

a. One (1) year of on-site operating experience may be substituted for two (2) years of grade school or one (1) year of high school with no limitation. ()

b. For Class III and IV, additional responsible charge experience (that exceeding the two-year class requirements) may be substituted for post-high school education on a one (1) for one (1) basis: one (1) year additional responsible charge equal one (1) year post-high school education. ()

03. Substituting Experience for Experience. Related experience may be substituted for experience up to one-half (1/2) of the operating experience requirement for Class II, III and IV. Experience that may be substituted includes, but is not limited to, the following: ()

a. Experience as an environmental or operations consultant; ()

b. Experience in an environmental or engineering branch of federal, state, county, or local government; ()

c. Experience as a wastewater collection system operator; ()

d. Experience as a wastewater treatment plant operator; ()

e. Experience as a water distribution system operator and/or manager; ()

f. One (1) year of post-high school education may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required operating or responsible charge experience. ()

g. Experience in waste treatment operation and maintenance. ()

h. Experience as a laboratory analyst can be counted as wastewater operating experience for up to one-half (1/2) of the wastewater operating experience requirement but cannot be counted as responsible charge experience. ()

i. Experience as a wastewater operator can be counted as laboratory analyst experience for up to one-half (1/2) of the laboratory analyst experience requirement. ()

04. Equivalency Policy. Substitutions for education or experience requirements needed to meet minimum requirements for license will be evaluated upon the following equivalency policies: ()

a. High School - High School diploma equals GED or equivalent as approved by the Board equals four (4) years. ()

b. College - Thirty (30) credits equal one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields as determined by the Board). ()

c. Continuing Education Units (CEU) for operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equal one (1) CEU; forty-five (45) CEUs equal one (1) year of college. ()

376. -- 399. (RESERVED)

400. ENDORSEMENT.

The board may waive the examination requirements and issue the appropriate license for applicants holding licenses issued by other States that have equivalent license requirements and who otherwise meet the requirements set forth in Subsections 150.02 and 150.03. ()

401. -- 449. (RESERVED)

450. WASTEWATER GRANDPARENT PROVISION.

The board issued grandparent licenses to wastewater operators who provided documentation satisfactory to the board of being in responsible charge of an existing public wastewater system on or before April 15, 2006. ()

01. Grandparent License. A grandparent license allowed the licensee to operate in responsible charge of the specific facility identified in the original application. The license is site specific and non-transferable and does not grant authority for the holder to practice at any other system in any capacity as an operator. ()

02. License Requirements. A grandparent licensed wastewater operator is required to meet all other requirements including the continuing education and renewal requirements. ()

03. Wastewater System Classification Limitations. The grandparent license becomes invalid any time the classification of the wastewater system changes to a higher classification. ()

451. -- 499. (RESERVED)

500. CONTINUING EDUCATION.

01. Continuing Education Requirement. Each licensee must successfully complete a minimum of six (6) hours (0.6 CEUs) of approved continuing education annually for license renewal, except that backflow assembly testers will complete an eight (8) hour refresher course every two (2) years for license renewal. Continuing education must be earned in a subject matter relevant to the field in which the license is issued. A licensee holding one (1) or more drinking water license(s) only needs to complete the annual continuing education requirement for one (1) license. A licensee holding one (1) or more wastewater license(s) only needs to complete the annual continuing education requirement for one (1) license. A licensee holding both drinking water and wastewater class licenses will complete a minimum of six (6) hours annually for the drinking water license plus six (6) hours annually for the wastewater license. ()

a. Each licensee will submit to the Board an annual license renewal application form, together with the required fees, certifying by signed affidavit that compliance with the CE requirements have been met. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. ()

b. A licensee will be considered to have satisfied their CE requirements for the first renewal of their license. ()

c. A water or wastewater licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. The same hours may not be carried forward more than one (1) renewal cycle. ()

d. Continuing Education hours for approved operator training courses, seminars, related college courses, and other training activities may be converted to Continuing Education Units (CEU) as follows: Six (6) classroom hours = point six (0.6) CEU. ()

02. Subject Material. The subject material of the continuing education requirement will be relevant to the license for which the continued education is required. "Relevant" will be limited to material germane to the operation, maintenance and administration of drinking water and wastewater systems as referenced in Chapter 24, Title 54, Idaho Code, and includes those subjects identified in the "need to know" criteria published by the Associations of Boards of Certification. ()

03. Course Approval. All course providers will submit requests for approval of continuing education courses to the Board in writing no less than thirty (30) days prior to the course being offered, on a form approved by the Board that includes: ()

- a. The name and qualifications of the instructor or instructors; ()
- b. The date, time and location of the course; ()
- c. The specific agenda for the course; ()
- d. The type and number of continuing education credit hours requested; ()
- e. A statement of how the course is believed to be relevant as defined; ()
- f. Any certificate of approval from a governmental agency if the course has been previously approved for continuing education; ()
- g. The training materials; ()
- h. Other information as may be requested by the Board. ()
- i. Upon review of all information requested, the Board may either approve or deny any request for a course. Board approval of a course will be granted for a period not to exceed five (5) years or until the course materials or instructors are changed. ()

04. Approved Courses. Those continuing education courses which are relevant and approved by the states of Nevada, Oregon, Montana, Utah, Wyoming, and Washington are deemed approved by the Board. ()

05. Verification of Attendance. It will be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification will be maintained by the licensee and provided upon request of the Board or its agent. ()

06. Distance Learning and Independent Study. The Board may approve a course of study for continuing education credit that does not include the actual physical attendance of the licensee in a face-to-face setting with the course instructor. The licensee will maintain documentation of the nature and details of the course and evidence that the licensee successfully completed the course, which will be made available to the Board upon request. ()

07. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements is subject to disciplinary action by the Board. ()

08. Exemptions. The Board may waive the continuing education requirement or extend the deadline up to ninety (90) days for any one (1) or more of the following circumstances. The licensee requests the exemption and provides any information requested to assist the Board in making a determination. An exemption may be granted at the sole discretion of the Board. ()

- a. The licensee is a resident of another jurisdiction recognized by the Board having a continuing professional education requirement for licensure renewal and has complied with the requirements of that state or district. ()
- b. The licensee is a government employee working outside the continental United States. ()
- c. The licensee documents individual hardship, including health (certified by a medical doctor) or other good cause. ()

501. -- 599. (RESERVED)

600. RENEWAL OR REINSTATEMENT OF LICENSE.

01. Expiration Date. All licenses expire and must be renewed annually on forms approved by the Board in accordance with Section 67-2614, Idaho Code. Licenses not so renewed will be cancelled in accordance with Section 67-2614, Idaho Code. ()

02. Reinstatement. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, with the exception that the applicant shall submit proof of having completed the total number of required continuing education for each year the license or certificate was cancelled. ()

03. Operator-in-Training License. Applicants for the operator-in-training license shall, upon compliance with the requirements of Subsections 300.01 and 300.02, be issued a “one-time” non-renewable license for the purpose of gaining supervised experience as an operator-in-training (OIT). This license will be valid for three (3) years from the date of issue. ()

04. Backflow Assembly Testers. Backflow assembly testers shall complete a Board-approved eight (8) hour refresher course every two (2) years for license renewal. ()

05. Wastewater Land Application License. Wastewater land application licenses shall not be renewed unless the licensee also maintains a current wastewater treatment license. ()

601. -- 649. (RESERVED)

650. BACKFLOW ASSEMBLY TESTER CODE OF ETHICS AND STANDARDS OF CONDUCT.

All backflow assembly tester licensees shall comply with the Idaho Backflow Assembly Tester Code of Ethics and Standards of Conduct as approved by the Board and attached to these rules as Appendix A. ()

651. -- 699. (RESERVED)

700. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensee for each violation of Chapter 24, Title 54, Idaho Code. ()

02. Costs and Fees. The Board may order a licensee to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Chapter 24, Title 54, Idaho Code. ()

701. -- 999. (RESERVED)

APPENDIX A

IDAHO BACKFLOW ASSEMBLY TESTER CODE OF ETHICS AND STANDARDS OF CONDUCT

The purpose of this rule is to protect public health by setting minimum requirements and standards for licensed Backflow Assembly Testers in Idaho who inspect and field test backflow assemblies, backflow prevention devices and air gaps that protect public water systems.

1. Code of Ethics -- A licensed Backflow Assembly Tester shall:

a. At all times, act in accordance with his/her primary obligation to perform his/her duties with due care and diligence to protect the safety, health and welfare of the public;

b. Comply with the laws and rules governing Backflow Assembly Testers and all applicable state and federal laws and regulations relating to backflow assembly testing;

c. Perform only those duties consistent with and appropriate to his/her experience, training, skills, abilities, and licensure; and

d. Be objective and truthful in all professional reports, statements, or testimony and include all relevant and pertinent information in such reports, statements or testimony.

2. Definitions:

a. Backflow Prevention Assembly: an approved assembly such as a Double Check Valve Assembly (DCVA), a Pressure Vacuum Breaker Assembly (PVBA), a Reduced Pressure Backflow Assembly (RPBA), or a Spill-Resistant Pressure Vacuum Breaker Assembly (SVBA) used for the protection of the public water supply according to the provisions of IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” as administered by DEQ.

b. Backflow Prevention Device: an approved device such as an Atmospheric Vacuum Breaker (AVB), which does not contain valves or test ports, or a method, such as an air gap, that is utilized to prevent cross connections to a public water supply.

c. Calibration/Verification: the annual verification, calibration, or both of a backflow assembly field test kit by an instrument calibration laboratory/facility or by a person qualified to verify and calibrate a field test kit such as a manufacturer, dealer licensed to calibrate or verify field test kits, or calibration technician.

d. Customer: means the owner of the property or his/her authorized or appointed agent.

e. Field Test Kit: an instrument, either mechanical or electronic in design, and all related fittings, tools, equipment and appurtenances necessary to perform field verification tests on backflow prevention assemblies.

3. Standards of Conduct

a. Principle 1 -- A Backflow Assembly Tester shall act only within the scope of practice as set forth in the Board’s laws and rules. A Backflow Assembly Tester must use due care and diligence in performing his/her duties.

b. Principle 2 -- When conducting inspections and field tests of backflow prevention assemblies, a Backflow Assembly Tester must use test procedures that comply with standard field test procedures.

c. Principle 3 -- The Backflow Assembly Tester shall observe or inspect existing installations of backflow prevention assemblies to identify whether the assembly is properly installed and whether, in the opinion of the Backflow Assembly Tester, the assembly is adequate and appropriate for the degree of hazard posed to the Public Water System having jurisdiction over the assembly.

i. A Backflow Assembly Tester must report improperly installed assemblies to the customer and the Public Water System having jurisdiction over the backflow prevention assembly and also must note the discrepancy on the test report and submit the test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

ii. A Backflow Assembly Tester must note discrepancies regarding inadequate or inappropriate backflow prevention assemblies on the test report and submit the test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

d. Principle 4 -- A Backflow Assembly Tester shall use a properly working and calibrated field test kit that meets the requirements of the Pacific Northwest Section of the American Water Works Association Cross Connection Control Manual, Seventh Edition, November 2012. When requested by a Public Water System, a Backflow Assembly Tester shall submit the most recent calibration report that verifies the accuracy of the field kit. When requested by a Public Water System, a Backflow Assembly Tester shall submit proof of current licensure in Idaho as a Backflow Assembly Tester.

e. Principle 5 -- The Backflow Assembly Tester must competently use a field test kit, all tools, and other equipment and appurtenances necessary to inspect and field test backflow prevention assemblies, inspect air

gaps and backflow prevention devices.

f. Principle 6 -- When a backflow prevention assembly passes a field test, the Backflow Assembly Tester shall submit within fifteen (15) business days of performing the field test a passing test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

g. Principle 7 -- When a backflow prevention assembly is defective or fails to pass the field test, the Backflow Assembly Tester shall submit immediately, if possible, but no later than within two (2) business days, a failing field test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

h. Principle 8 -- The Backflow Assembly Tester shall complete a test report for each backflow prevention assembly for which the Backflow Assembly Tester conducts a field test. A test report must be legible and contain all relevant and pertinent information pertaining to the field test including, at a minimum, the make, model, size, serial number, orientation, and test results for each test conducted.

i. A Backflow Assembly Tester shall record data and sign test reports only for backflow prevention assemblies for which the Backflow Assembly Tester has personally conducted the field test.

ii. A Backflow Assembly Tester shall not falsify the results of a backflow prevention assembly field test or inspection.

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 Occupational and Professional Licenses

Agency Contact: Tim Frost **Phone:** (208) 577-2491

Date: 10/1/2022

IDAPA, Chapter and Title Number and Chapter Name:

24.35.01, Rules of the Board of Drinking Water and Wastewater Professionals

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

Rulemaking Docket Number: 24-0501-2200F

STATEMENT OF ECONOMIC IMPACT: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

The following is a specific description of the fees or charges:

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$25
Examination	Amount set by examination provider
Endorsement	\$30
Original License	\$30
Annual renewal	\$30
Reinstatement	As provided in Section 67-2614, Idaho Code