

Dear Senators PATRICK, Guthrie, Ward-Engelking, and
Representatives BARBIERI, Clow, Smith:

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

IDAPA 07.05.01 - Rules of the Public Works Contractors License Board - Proposed Rule (Docket
No. 07-0501-1801);

IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventillation, and Air Conditioning
Systems, Division of Building Safety - Proposed Rule (Docket No. 07-0701-1703).

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 08/22/2018. 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 09/20/2018.

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: August 3, 2018

SUBJECT: Division of Building Safety

IDAPA 07.05.01 - Rules of the Public Works Contractors License Board - Proposed Rule (Docket No. 07-0501-1801)

IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventillation, and Air Conditioning Systems, Division of Building Safety - Proposed Rule (Docket No. 07-0701-1703)

1. 07.05.01 - Rules of the Public Works Contractors License Board - Proposed Rule (Docket No. 07-0501-1801)

Summary and Stated Reasons for the Rule

The proposed rule submitted by the Division of Building Safety defines "Qualified Individual" in accordance with statute, clarifies that notice that a qualified individual has ceased to be connected with the contractor must be on a form prescribed by the administrator and provides for the reasonable length of time that a contractor's license will remain in force after a qualified individual has ceased to be connected with the contractor.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted and Notice of Intent to Promulgate Rules was published in the June edition of the Idaho Administrative Bulletin. There is no fiscal impact associated with this rulemaking.

Statutory Authority

The proposed rule appears to be within the statutory authority granted to the Division in Sections 54-1907 and 54-1910, Idaho Code.

2. 07.07.01 - Rules Governing Installation of Heating, Ventillation, and Air Conditioning Systems, Division of Building Safety - Proposed Rule (Docket No. 07-0701-1703)

Summary and Stated Reasons for the Rule

The proposed rule submitted by the Division of Building Safety allows an HVAC apprentice to receive credit for up to one year of work experience and take the journeyman examination before completing four years of work experience upon completion of an approved training course.

Negotiated Rulemaking / Fiscal Impact

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Negotiated rulemaking was conducted and Notice of Intent to Promulgate Rules was published in the October 2017 and February 2018 editions of the Idaho Administrative Bulletin. There is no fiscal impact associated with this rulemaking.

Statutory Authority

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
Patrick Grace

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules must 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 07 – DIVISION OF BUILDING SAFETY

07.05.01 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

DOCKET NO. 07-0501-1801

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 54-1907 and 54-1910, 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 August 15, 2018.

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:

Under Section 54-1910(a), Idaho Code, a public works contractor licensee must designate an individual qualified by examination (QI). If a QI ceases “to be connected” with the contractor, the contractor must notify the administrator of the Division of Building Safety (Division) “in writing within ten (10) days.” If the contractor provides notice in ten (10) days, the contractor’s license remains in force “for a reasonable length of time, to be determined by rules of the board.” If the contractor does not provide notice in ten (10) days, the contractor’s license is automatically suspended.

There is no rule that defines how long “a reasonable time length of time” is. Further, the Division cannot always determine what constitutes written notice that a QI has ceased to be connected with a contractor or when a QI has ceased to be connected with a contractor.

This proposed rulemaking will define a QI, determine the “reasonable length of time” a contractor’s license will remain in force, and clarify that notice that a contractor’s QI has ceased to be connected with the contractor must be provided on forms prescribed by the administrator.

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 6, 2018 Idaho Administrative Bulletin, **Vol. 18-6, pages 28-29.**

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 Ron Whitney, Deputy Administrator, at (208) 332-7150.

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 August 22, 2018.

DATED this 9th day of July 2018.

Ron Whitney, Deputy Administrator
Division of Building Safety
Phone: (208) 332-7150
Fax: (877) 810-2840

1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0501-1801
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

As used in these rules. (7-1-93)

01. Administrator. Refers to the administrator of the Division of Building Safety. (3-20-04)

02. Applicant. Shall mean any person who has filed an application with the administrator. (3-20-04)

03. Board. Refers to the Public Works Contractors License Board which is created within the Idaho Division of Building Safety as set forth in Title 54, Chapter 19, Idaho Code. (3-20-04)

04. Compiled. Refers to a type of financial statement in which the information presented is based solely upon representations by an organization's management. (3-20-04)

05. Estimated Cost. For the purposes of the application of Section 54-1903(i), Idaho Code, the term "estimated cost" shall refer to the total aggregate amount of the value of all the separate or individual jobs, parts, components, or undertakings involved in the construction of a single project when combined and considered as a whole, regardless of the types of trades, sub-contracts, work, or other individual aspects involved, and without regard to the number of trades or crafts that are involved. (3-29-10)

06. Financial Statement. A balance sheet and income statement prepared in accordance with generally accepted accounting principles. (3-20-04)

07. Incidental Work. Shall mean work, the nature of which does not require any additional trade licenses and which may be carried out in conjunction with an activity for which the licensee is licensed, but is not intended to produce an amount of income over ten percent (10%) of the total bid amount. (3-20-04)

08. Independent Audit Report. A report prepared by an independent certified public accountant presenting such auditor's opinion on the fairness of the organization's financial statements and prepared in accordance with generally accepted auditing standards. (3-20-04)

09. Licensee. Includes any individual proprietor, partnership, limited liability partnership, limited liability company, corporation, joint venture, or other business organization holding a current, unrevoked public works contractor license. (3-20-04)

10. Petitioner. Shall mean: (7-1-93)

a. Any licensee who has filed with the Board a written request for the change or addition to the types of construction for which he is licensed; (7-1-93)

b. Any applicant or licensee requesting a rehearing in any proceeding or appealing from the final decision or order of the administrator or the Board; (3-20-04)

c. Any interested person requesting the promulgation, amendment or repeal of a rule; or (7-1-93)

d. Any interested person requesting a declaratory ruling on the applicability of the License Act or of any rule or order of the Board. (7-1-93)

11. Qualified Individual. The person qualifying by examination as to the experience and knowledge required by Section 54-1910(a), Idaho Code. ()

112. **Reviewed.** Refers to a financial statement that is accompanied by the opinion of a certified public accountant stating that, based upon representations by the organization's management, the reviewer has a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for the statements to be in accordance with generally accepted accounting principles. (3-20-04)

(BREAK IN CONTINUITY OF SECTIONS)

113. INDIVIDUAL QUALIFIED BY EXAMINATION.

01. Written Notice. Written notice, required by Section 54-1910(a), Idaho Code, that the Qualified Individual of a public works contractor has ceased to be connected with the contractor shall be provided to the Administrator on forms prescribed by the Administrator. Such notice must indicate the date the Qualified Individual ceased to be connected with the contractor. ()

02. Reasonable Length of Time. If a public works contractor notifies the Administrator that the contractor's Qualified Individual has ceased to be connected with the contractor, the contractor's license will remain in force for ninety (90) days from the date of the notice. ()

1134. -- 198. (RESERVED)

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. 07-0701-1703

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 Section 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 August 15, 2018.

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:

Heating, ventilation, and air conditioning (HVAC) apprentices must currently complete four (4) years of work experience to take the journeyman examination. Further, in 2006, the Idaho HVAC Board (Board) approved giving apprentices who successfully complete a full-time, one-year training course credit for one (1) year of work experience. The Division of Building Safety stopped giving such credit to apprentices when it discovered that the Board's decision conflicted with a rule requiring that work experience be completed on the job and not in an educational setting.

This rulemaking will allow apprentices to take the journeyman examination before completing four (4) years of work experience. This proposed rulemaking will also allow apprentices who successfully complete a Board-approved, full-time, one-year training course to receive credit for up to one (1) year of work experience.

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 October 4, 2017 Idaho Administrative Bulletin, **Vol. 17-10, pages 47-48**, and in the February 7, 2018 Administrative Bulletin, **Vol. 18-2, pages 24-25**.

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 John Nielsen, HVAC Program Manager, at (208) 332-7112.

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 August 22, 2018.

DATED this 6th day of July 2018.

Ron Whitney, Deputy Administrator
Division of Building Safety
1090 E. Watertower St., Ste. 150
P. O. Box 83720
Meridian, ID 83642
Phone: (208) 332-7150
Fax: (877) 810-2840

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0701-1703
(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. Notwithstanding the requirement that an HVAC apprentice demonstrate four (4) years of on-the-job work experience under the supervision of a qualified HVAC journeyman, any HVAC apprentice who successfully completes a Board-approved, full-time, one (1)-academic-year HVAC training course may receive credit for up to one (1) year of on-the-job work experience. (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)

a. Each HVAC apprentice who desires to take the HVAC journeyman examination shall complete a Board-approved training course as described in Subsection 025.02 of these rules prior to the date of the examination and provide a certificate of completion with the apprentice's application for examination. There is no minimum work experience requirement to be eligible to take the HVAC journeyman examination. ()

b. The Division shall not issue a certificate of competency to an HVAC apprentice until the apprentice furnishes to the Division proof of satisfaction of the requirements contained in Subsection 023.01 of these rules and successful completion of the journeyman examination. ()

04. Out of State Journeyman Applications. (3-24-17)

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. (3-24-17)

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 of 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. (3-24-17)