

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

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

IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning
Systems (Fee Rule) - Proposed Rule (Docket No. 07-0701-1902).

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 09/30/2019. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/29/2019.

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

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



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Principal Legislative Drafting Attorney - Ryan Bush

DATE: September 11, 2019

SUBJECT: Division of Building Safety

IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems (Fee Rule) - Proposed Rule (Docket No. 07-0701-1902)

Summary and Stated Reasons for the Rule

The Division of Building Safety has submitted notice of proposed rulemaking at IDAPA 07.07.01 - Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems (Fee Rule). The Division states that this fee rule is to address prior inconsistency in fees by now calculating fees based on the number of systems, fixtures, appliances, zones, outlets, or ducts instead of square footage. In addition, this rulemaking revises the certificates of competency and examination requirements for HVAC journeymen and the HVAC apprentice requirements for registration.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted and notice was published in the July edition of the Idaho Administrative Bulletin. There is no fiscal impact associated with this rulemaking.

Statutory Authority

The proposed fee rule appears to be within the statutory authority granted to the Division in Sections 54-5004 and 54-5005, Idaho Code.

cc: Division of Building Safety
Patrick Grace

*** PLEASE NOTE ***

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.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

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

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

IDAPA 07 – DIVISION OF BUILDING SAFETY

07.07.01 – RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS

DOCKET NO. 07-0701-1902 (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 54-5001, 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 September 18, 2019.

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, the Division calculates HVAC permit fees based on the square footage of a home. Specialty contractors have complained that this method of calculating fees gives HVAC contractors an unfair advantage. For example, a specialty contractor must pay the same amount to install one gas fireplace as a contractor must pay to install an entire heating and cooling system, duct work, and exhaust ducts. This proposed rulemaking would remove this advantage by calculating fees based on the number of systems, fixtures, appliances, zones, outlets, or ducts instead of square footage.

Currently, an apprentice must enroll in or successfully complete a Board-approved training course to renew his or her registration. This proposed rulemaking would provide a way for an apprentice to renew his or her registration and stay in the trade without enrolling in or successfully completing school.

In addition, this proposed rulemaking will eliminate or simplify provisions in IDAPA 07.07.01 in compliance with the Red Tape Reduction Act ([Executive Order 2019-02](#)).

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

The Division has the authority to establish fees pursuant to Idaho Code section 54-5005. This proposed rulemaking would change the way the Division calculates residential HVAC permit fees. Instead of calculating permit fees based on the square footage of a home, this rulemaking will charge a base permit fee for each home plus additional fees for each system, fixture, appliance, zone, outlet, or duct. This proposed rulemaking would also add fees for services and permits the Division already offers, such as inspection of mobile and manufactured homes and modular buildings, technical service, fuel gas piping systems, and hydronic systems. In some cases, the proposed amendments would reduce permit fees. Although the proposed amendments would raise permit fees in some instances, the fee for each permit will not exceed the cost of processing the permit and inspecting the work performed under the permit.

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 July 3, 2019 Idaho Administrative Bulletin, [Vol. 19-7, pages 147 through 148](#).

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 or at john.nielsen@dbs.idaho.gov.

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 September 25, 2019.

Dated this 31st day of July, 2019.

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
ron.whitney@dbs.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0701-1902
(Only Those Sections With Amendments Are Shown.)

023. HVAC JOURNEYMAN CERTIFICATES OF COMPETENCY AND EXAMINATION REQUIREMENTS.

01. Experience Certificate of Competency Requirements. ~~Demonstrate, to the satisfaction of the board, a minimum of~~ **To obtain a journeyman certificate of competency, an applicant shall submit to the Division sufficient evidence demonstrating the applicant has successfully completed the journeyman examination and** four (4) years², ~~defined as a minimum of eight thousand (8,000) hours of work~~ **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. (4-11-19)()

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

032. Examination Requirement. ~~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~~ **To take the HVAC journeyman examination, an applicant must submit to the Division sufficient evidence demonstrating the applicant has successfully** complete~~d~~ 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.~~ (4-11-19)()

~~b. The Division will 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.~~ (4-11-19)

043. 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 must include satisfactory proof of licensure in such jurisdiction. The applicant must 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 must include evidence that demonstrates that the applicant has four (4) years, defined as a minimum of eight thousand (8,000) hours of HVAC work experience or a nature at least equivalent to that which an an HVAC apprentice must perform in Idaho, as well as four (4) years of schooling equivalent to that which an an 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 an an HVAC apprentice must perform in Idaho. Upon submission of sufficient proof of having completed such experience and schooling requirements, such applicant must also pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (~~3-24-17~~)()

(BREAK IN CONTINUITY OF SECTIONS)

025. HVAC APPRENTICE REQUIREMENTS FOR REGISTRATION.

~~Requirements for HVAC Apprentice.~~

(~~4-11-06~~)()

01. ~~Age-Registration.~~ To become an apprentice, a person shall comply with Section 54-5012, Idaho Code, and be a minimum of eighteen (18) years of age unless or sixteen (16) years of age if registered in a by the Bureau of Apprenticeship and Training (BAT) certified HVAC training program of the United States Department of Labor. To renew a registration, an apprentice shall show proof of enrollment in a Board-approved training course or completion of eight (8) hours of Board-approved continuing education for each year of the prior registration period.

(~~4-11-06~~)()

~~02. Training. Maintain enrollment in or successfully complete a training program approved by the board.~~

(~~4-11-06~~)

03. Supervision. Each apprentice must ~~W~~work under the supervision of a certified HVAC journeyman.

(~~4-11-06~~)()

(BREAK IN CONTINUITY OF SECTIONS)

051. HVAC PERMIT FEES ~~FOR HVAC INSPECTIONS SCHEDULE.~~

~~HVAC inspection Permit~~ fees are to cover the cost of HVAC inspections as provided by Section 54-5017, Idaho Code. ~~Any person, partnership, company, firm, association, or corporation making an HVAC installation must pay to the Division of Building Safety an inspection a permit~~ fee as provided in the following schedule: (~~3-26-08~~)()

01. ~~New-Residential—Single Family Dwelling.~~ Includes all buildings with HVAC systems being ~~constructed~~ installed on each property. The following permit fees apply to all residential installations:

| New-Residential—Single Family Dwelling | |
|--|--------------------|
| Up to 1,500 Square feet of living space | - \$130 |
| 1,501 to 2,500 Square feet of living space | - \$195 |
| 2,501 to 3,500 Square feet of living space | - \$260 |

| | |
|---|--|
| <i>3,501 to 4,500 Square feet of living space</i> | - \$325 |
| <i>Over 4,500 Square feet of living space</i> | - \$325 plus \$65 for each additional 1,000 square feet or portion thereof |

| Type | Fee |
|---|---|
| <u>Base permit</u> | \$100 |
| <u>Furnace, furnace-air conditioner combination, heat pump, air conditioner, evaporative cooler, unit heater, space heater, decorative gas-fired appliance, incinerator, boiler, pool heater, mini-split system, free-standing solid-fuel stove, factory-built gas fireplace, or similar fixture or appliance, including ducts, vents, and flues attached thereto</u> | Plus \$30 per first fixture or appliance Plus \$15 per additional fixture or appliance |
| <u>Exhaust duct or ventilation duct, including dryer vents, range hood vents, cook stove vents, bath fan vents, and similar exhaust ducts or ventilation ducts</u> | Plus \$15 per first duct Plus \$5 per additional duct |
| <u>Fuel gas piping system</u> | Plus \$5 per appliance outlet |
| <u>Hydronic systems</u> | Plus \$5 per zone |

(4-9-09)()

02. ~~New Residential—Multi Family Dwellings~~ **Miscellaneous.** The following permit fees apply for the types of permits listed:

| New Residential—Multi Family Dwellings | |
|--|---|
| <i>Duplex Apartment</i> | - \$260 |
| <i>Three (3) or more multi-family units</i> | - \$130 per Building plus \$65 per Unit |

| Type | Fee |
|---|--|
| <u>Requested inspection</u> | \$65 per hour or portion thereof plus costs of out-of-state travel |
| <u>Mobile or manufactured home</u> | \$65 per inspection |
| <u>Modular building</u> | |
| <u>Plain check or technical service</u> | \$65 per hour or portion thereof |

(3-26-08)()

03. ~~Existing Residential.~~ Sixty five dollars (\$65) plus ten dollars (\$10) for each additional piece of HVAC equipment being installed up to a maximum of the corresponding square footage of the residential building.
 (3-26-08)

043. **Other Installations Including Industrial and Commercial.** The inspection permit fees listed in this Subsection apply to any and all HVAC installations not specifically mentioned elsewhere in this schedule. The HVAC system cost is the cost to the owner of all labor charges and all other costs that are incurred in order to

complete the installation of ~~any and all HVAC~~ equipment and materials installed as part of the HVAC system. All permit fees calculated under this Subsection are based on the total HVAC system cost, which must be listed on the permit.

| <u>HVAC System Cost</u> | <u>Fee</u> |
|------------------------------|---|
| <u>Up to \$10,000</u> | <u>\$60 plus 2% of HVAC system cost</u> |
| <u>\$10,000 to \$100,000</u> | <u>\$260 plus 1% of HVAC system cost exceeding \$10,000</u> |
| <u>Over \$100,000</u> | <u>\$1,160 plus .5% of HVAC system cost exceeding \$100,000</u> |

~~(3-26-08)~~()

~~a. HVAC system cost not exceeding ten thousand dollars (\$10,000): sixty dollars (\$60) plus two percent (2%) of the total HVAC system cost. (3-26-08)~~

~~b. HVAC system cost over ten thousand dollars (\$10,000) but not exceeding one hundred thousand dollars (\$100,000): two hundred sixty dollars (\$260) plus one percent (1%) of the HVAC system cost exceeding ten thousand dollars (\$10,000). (3-26-08)~~

~~c. HVAC system cost over one hundred thousand dollars (\$100,000): one thousand one hundred sixty dollars (\$1,160) plus one half of one percent (.5%) of the HVAC system cost exceeding one hundred thousand dollars (\$100,000). (3-26-08)~~

~~d. All fees calculated under this schedule must be calculated on the total HVAC cost of the job, and this figure must be shown on the permit. (3-26-08)~~

~~05. Requested Inspections A fee of sixty-five dollars (\$65) per hour or portion of an hour applies, with the requesting party responsible for all costs incurred in out-of-state travel. (3-26-08)~~

064. Additional Fees and Re-Inspection Fees. A fee of sixty-five dollars (\$65) per hour or portion thereof applies to trips to inspect: ~~(3-26-08)~~()

a. Trips to inspect wWhen the submitter of the permit had holder has given notice to the Division of Building Safety that the work is ready for inspection and it is not: ()

b. if the submitter permit holder has not accurately identified the work location, ~~or:~~ ()

c. if the inspector cannot gain access to make the inspection: ~~(3-26-08)~~()

d. Trips to inspect eCorrections required by the inspector as a result of the submitter permit holder improperly responding to a corrective notice; or ~~(3-26-08)~~()

e. Each trip necessary to remove a red tag from the jobsite. (3-26-08)

d.e. When corrections have not been made in the prescribed time, unless an extension has been requested and granted. (3-26-08)

e05. No pPermit. -fFailure to post or send purchase a permit and required fee in the prescribed time will, at the discretion of the Division, before commencing work may result in the assessment of a double fee. ~~(3-26-08)~~()

07. Plan Check Fee. Sixty-five dollars (\$65) per hour or portion thereof. (3-26-08)

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: John Nielson **Phone:** (208) 332-7112

Date: July 31, 2019

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: 07-0701-1902

STATEMENT OF ECONOMIC IMPACT:

This proposed rulemaking would have a positive economic impact for the HVAC program and HVAC Board dedicated fund. This proposed rulemaking would require the Division to use a different method to calculate residential permit fees. This different method would increase the revenue produced by these fees.

In some cases, this proposed rulemaking would reduce permit fees. Although this proposed rulemaking would raise permit fees in some instances, the fee for each permit would not exceed the cost of processing the permit and inspecting work performed under the permit.

In addition, this proposed rulemaking would level the playing field for HVAC contractors and specialty contractors by calculating fees based on the amount of systems, fixtures, appliances, zones, outlets, or ducts instead of square footage.