



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

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

FROM: Matt Drake - Legislative Drafting Attorney

DATE: April 22, 2020

SUBJECT: Temporary Rule

IDAPA 24.01.01 - Notice of Omnibus Rulemaking (Fee Rule) - Adoption of Temporary Rule - Docket
No. 24-0101-2000F

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Matt Drake at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

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Research & Legislation

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IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.01.01 – RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS

DOCKET NO. 24-0101-2000F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule being adopted through this omnibus rulemaking is the adjournment date of the second regular session of the 65th Idaho State Legislature - March 20, 2020.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 54-308, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This temporary rulemaking adopts the following chapter under IDAPA 24:

IDAPA 24.01

- 24.01.01, *Rules of the Board of Architectural Examiners.*

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

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These temporary rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules establish and govern the standards necessary for architectural practice. Allowing these rules to expire would harm industry, and the public health, safety and welfare because the Board could not renew current licenses and admit new licensees.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fees or charges being imposed or increased is justified and necessary to avoid immediate danger and the fees are described herein:

The fees or charges, authorized in Section 54-313, Idaho Code, are part of the agency’s 2021 budget that relies upon the existence of these fees or charges to meet the state’s obligations and provide necessary state services. Failing to reauthorize these temporary rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho’s constitutional requirement that it balance its budget.

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

FEE TYPE	AMOUNT (Not to Exceed)
Examination	Established by NCARB
Application	\$25
Annual renewal	\$50
Endorsement license	\$50
Temporary license	\$50
Reinstatement	As provided in Section 67-2614, Idaho Code

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

DATED this February 21, 2020.

Kelley Packer
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Division of Occupational and Professional Licenses
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IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.01.01 – RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS

000. LEGAL AUTHORITY.

These rules are hereby prescribed and established pursuant to the authority vested in the Board of Architectural Examiners by the provisions of Section 54-308, Idaho Code. (3-20-20)T

001. TITLE AND SCOPE.

These rules are titled IDAPA 24.01.01, “Rules of the Board of Architectural Examiners.” (3-20-20)T

002. INCORPORATION BY REFERENCE.

The document titled NCARB Rules of Conduct as published by the National Council of Architectural Registration Boards, dated July 2014, is hereby incorporated by reference. All documents incorporated by reference can be obtained at the office of the Division and on the Board website. (3-20-20)T

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. **AXP.** Architectural Experience Program. (3-20-20)T

02. **Direct Supervision.** Direct supervision of an unlicensed individual in the practice of architecture means the exercise of management, control, authority, responsibility, oversight and guidance over the unlicensed individuals work, activities and conduct. (3-20-20)T

03. **NAAB.** National Architectural Accrediting Board. (3-20-20)T

04. **NCARB.** National Council of Architectural Registration Board. (3-20-20)T

011. -- 099. (RESERVED)

100. ORGANIZATION.

01. **Organization of the Board.** At the first meeting of each calendar year, the Board shall organize and elect from its members a Chairman and Vice Chairman, who shall assume the duties of their respective offices immediately upon such selection. (3-20-20)T

02. **Board Members and Duties.** (3-20-20)T

a. **Chairman.** The Chairman shall be a voting member of the Board, and when present preside at all meetings, appoint with the consent of the Board, all committees, and shall otherwise perform all duties pertaining to the office of Chairman. The Chairman shall be an ex-officio member of all committees. (3-20-20)T

b. **Vice Chairman.** The Vice Chairman shall, in the absence or incapacity of the Chairman exercise the duties and possess all the powers of the Chairman. (3-20-20)T

101. -- 149. (RESERVED)

150. PROCEDURES AND DUTIES.

01. **Meetings.** The Board shall meet at least four (4) times annually at such times and places as designated by the Board or the Chairman of the Board. Special meetings may be held at the call of the Chairman or at the request of two (2) Board members, and all members shall be notified in writing, thereof. (3-20-20)T

02. **Voting.** Any motion before the Board shall fail on a tie vote. (3-20-20)T

151. -- 174. (RESERVED)

175. APPLICANT PAST CRIME REVIEW.

01. Review Authority. In reviewing an Applicant for licensure who has been convicted of a felony or misdemeanor as set forth in section 54-314(1)(d) Idaho Code, the Board may utilize the follow process and factors to determine the applicant's suitability for licensure: (3-20-20)T

02. Exemption Review. The exemption review shall consist of a review of any documents relating to the crime and any supplemental information provided by the applicant bearing upon his suitability for registration. The Board may, at its discretion, grant an interview of the applicant. (3-20-20)T

- a.** During the review, the Board shall consider the following factors or evidence: (3-20-20)T
 - i. The severity or nature of the crime; (3-20-20)T
 - ii. The period of time that has passed since the crime under review; (3-20-20)T
 - iii. The number or pattern of crimes or other similar incidents; (3-20-20)T
 - iv. The circumstances surrounding the crime that would help determine the risk of repetition; (3-20-20)T
 - v. The relationship of the crime to the practice of architecture; and (3-20-20)T
 - vi. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation. (3-20-20)T
- b.** The applicant shall bear the burden of establishing their current suitability for licensure. (3-20-20)T

176. -- 199. (RESERVED)

200. FEES FOR EXAMINATIONS AND LICENSURE.
 No refund of fees shall be made.

FEE TYPE	AMOUNT (Not to Exceed)
Examination	Established by NCARB
Application	\$25.00
Annual renewal	\$50.00
Endorsement license	\$50.00
Temporary license	\$50.00
Reinstatement	As provided in Section 67-2614, Idaho Code

(3-20-20)T

201. -- 249. (RESERVED)

250. QUALIFICATIONS OF APPLICANTS FOR EXAMINATION.

01. Accredited Degree Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess a professional degree in architecture from a program that is accredited by the National Architectural Accrediting Board (NAAB) or that is approved by the Board. All applicants for the ARE must have started or completed the Architectural Experience Program (AXP) requirements. (3-20-20)T

02. Experience in Lieu of Degree Applicants. The Board may allow an applicant without an architecture degree to sit for the architecture examination upon determining that such applicant has attained the knowledge and skill approximating that attained by graduation from an accredited architecture curriculum including the submission of a record of eight (8) years or more of experience in architecture work of a character deemed satisfactory by the Board. Said experience may include that necessary for completion of the AXP. Two (2) years of eight (8) or more years of experience may be accepted if determined that such experience is directly related to architecture under the direct supervision of a registered engineer (practicing as a structural, civil, mechanical or electrical engineer in the field of building construction) or a registered landscape architect. At least six (6) years of such experience must be obtained while working under the direct supervision of a licensed architect. A person is qualified for the examination once they have met the experience requirement and started the AXP. (3-20-20)T

251. – 299. (RESERVED)

300. APPLICATION.

01. Licensure by Examination. (3-20-20)T

a. Application for licensure by examination shall be made on the uniform application form adopted by the Board. (3-20-20)T

b. Applicants shall furnish all information required by the uniform application form and shall include the following: (3-20-20)T

i. If applying based upon an accredited degree: Furnish certification of graduation and a certified transcript of all subjects and grades received for all college courses taken. (3-20-20)T

ii. If applying based upon experience in lieu of an accredited degree: Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. (3-20-20)T

c. Application shall not be reviewed by the Board until all required information is furnished and the required fee is paid. (3-20-20)T

d. Applications received less than seven (7) days prior to a Board meeting may be held over to the next meeting. (3-20-20)T

02. Licensure by Endorsement -- Blue Cover. General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. (3-20-20)T

03. Licensure by Endorsement -- Equivalency. (3-20-20)T

a. Applicants for licensure by endorsement must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. (3-20-20)T

b. Applicants shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. (3-20-20)T

c. Applicants shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. (3-20-20)T

301. -- 349. (RESERVED)

350. REGISTRATION EXAMINATION.

The Board, having found that the content and methodology of the ARE prepared by NCARB is the most practicable and effective examination to test an applicant's qualifications for registration, adopts the ARE as the single, written and/or electronic examination for registration of architects in this state, and further adopts the following rules with respect thereto: (3-20-20)T

01. When Taken. The Board will cause the ARE, prepared by NCARB, to be administered to all applicants eligible, in accordance with the requirements of the Board, by their training and education to be examined for registration on dates scheduled by the NCARB. The Board shall cause repeat divisions of the ARE to be administered to qualified candidates on such dates as are scheduled by the NCARB. The ARE examination is a multiple part examination prepared by NCARB. Content of the examination in all of its sections is available from the Board or NCARB. (3-20-20)T

02. Grading. The ARE shall be graded in accordance with the methods and procedures recommended by the NCARB. To achieve a passing grade on the ARE, an applicant must receive a passing grade in each division. Grades from the individual division may not be averaged. Applicants will have unlimited opportunities to retake division which they fail except as set forth in these rules. The Board shall accept passing grades of computer administered divisions of the ARE as satisfying the requirements for said division(s) when such examinations are administered as prescribed by the NCARB. (3-20-20)T

03. Passing (ARE). To pass the ARE, an applicant must achieve a passing grade on each division. Subject to certain conditions, a passing grade for any division of the ARE shall be valid for five (5) years, after which time the division must be retaken unless all divisions have been passed. The Board may allow a reasonable extension of such period in circumstances where completion of all divisions is prevented by a medical condition, active duty in military service, or other like causes. Approval to take the ARE will terminate unless the applicant has passed or failed a division of the ARE within a period of five (5) years. Any applicant whose approval has so terminated must reapply for approval to take the ARE. (3-20-20)T

351. -- 374. (RESERVED)

375. ARCHITECTURAL INTERN.

An individual may represent themselves as an architectural intern only under the following conditions: (3-20-20)T

01. Supervision. Each architectural intern shall be employed by and work under the direct supervision of an Idaho licensed architect. (3-20-20)T

02. AXP Enrollment. Each architectural intern shall be enrolled in NCARB's AXP and shall maintain a record in good standing. (3-20-20)T

03. Record. Each architectural intern shall possess either: (3-20-20)T

a. A record with the NCARB establishing that AXP training has been started; or (3-20-20)T

b. A record establishing completion of all AXP training regulations as specified by NCARB. (3-20-20)T

04. Prohibitions. An architectural intern shall not sign or seal any architectural plan, specification, or other document. An architectural intern shall not engage in the practice of architecture except under the direct supervision of an Idaho licensed architect. (3-20-20)T

376. -- 399. (RESERVED)

400. FIRM NAME.

01. Firm Names. Firm names incorporating the use of names of unlicensed individuals are considered in violation of Section 54-315, Idaho Code. A firm may continue to utilize the name of a retired or deceased formerly licensed architect so long as their unlicensed status is clearly disclosed. (3-20-20)T

401. -- 409. (RESERVED)

410. USE OF AN ARCHITECT'S SEAL.

An architect's seal may be placed on all technical submissions prepared personally by the architect or prepared under the architect's responsible control or as otherwise allowed under the provisions of Section 54-304, Idaho Code. Nothing in this rule shall limit an architect's responsibility to the owner for the work of other licensed professionals to the extent established by contract between the owner and architect. (3-20-20)T

411. -- 449. (RESERVED)

450. CONTINUING EDUCATION.

In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (3-20-20)T

01. Continuing Education Requirement. Each Idaho licensed architect must successfully complete a minimum of twelve (12) hours of continuing education in architectural health, safety and welfare in the calendar year prior to license renewal. (3-20-20)T

a. Each licensee will submit to the Board their annual renewal application form and required fees, and will certify that they have complied with annual CE requirements for the previous calendar year. Each licensee will provide to the Board together with their application for reinstatement of an expired license form and required fees, proof of compliance with annual CE requirements for each year that their license was expired. A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. (3-20-20)T

b. A licensee shall be considered to have satisfied their CE requirements for the first renewal of their initial license. Licensees who have failed to meet the annual continuing education requirement may petition the Board for additional time to complete their continuing education requirements. (3-20-20)T

c. A licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. (3-20-20)T

d. One (1) continuing education hour shall be equal to one (1) learning unit, as determined by the American Institute of Architects, or one (1) clock hour of education, as determined by the Board. (3-20-20)T

02. Architectural Health, Safety and Welfare Requirement. To qualify for continuing education, a course must involve architectural health, safety and welfare, which generally relates to the structural integrity or unimpairedness of a building or building sites and be germane to the practice of architecture. Courses may include the following subject areas: (3-20-20)T

a. Legal, which includes laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public. (3-20-20)T

b. Building systems, which includes structural, mechanical, electrical, plumbing, communications, security, and fire protection. (3-20-20)T

c. Environmental, which includes energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation. (3-20-20)T

d. Occupant comfort, which includes air quality, lighting, acoustics, ergonomics. (3-20-20)T

e. Materials and methods, which includes construction systems, products, finishes, furnishings, and equipment. (3-20-20)T

f. Preservation, which includes historical, reuse, and adaptation. (3-20-20)T

g. Pre-Design, which includes land use analysis, programming, site selection, site and soils analysis, and surveying. (3-20-20)T

h. Design, which includes urban planning, master planning, building design, site design, interiors, safety and security measures. (3-20-20)T

i. Construction documents, which includes drawings, specifications, and delivery methods. (3-20-20)T

j. Construction contract administration, which includes contracts, bidding, contract negotiations. (3-20-20)T

03. Approved Credit. Continuing education courses must be in the subject of architectural health, safety and welfare and be presented by: (3-20-20)T

a. Providers approved by the National Architectural Accreditation Board (NAAB) schools of architecture; or (3-20-20)T

b. Providers approved by the National Council of Architectural Registration Board (NCARB); or (3-20-20)T

c. Providers approved by the American Institute of Architects (AIA); or (3-20-20)T

d. Providers as otherwise approved by the Board. All requests for approval or pre-approval of continuing education credits must be made to the Board in writing and must be accompanied by a statement that includes the name of the instructor or instructors, his or her qualifications, the date, time and location of the course, the specific agenda for the course, the number of continuing education hours requested, and a statement of how the course is believed to be in the nature of architectural health, safety and welfare. (3-20-20)T

04. Verification of Attendance. It shall 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 shall be maintained by the licensee for a period of five (5) years and provided to the Board upon request of the Board or its agent. (3-20-20)T

05. 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 shall be subject to disciplinary action by the Board. (3-20-20)T

06. Exemptions. A licensed architect shall be deemed to have complied with the CE requirements if the licensee attests in the required affidavit that for not less than ten (10) months of the preceding one (1) year period of licensure, the architect has met one (1) of the following criteria: (3-20-20)T

a. Meets the military exemption set forth in Section 67-2602A, Idaho Code. (3-20-20)T

b. Is a government employee working as an architect and assigned to duty outside the United States. (3-20-20)T

c. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The architect must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-20-20)T

451. -- 749. (RESERVED)

750. CODE OF ETHICS.

01. Rules of Conduct. The NCARB Rules of Conduct are hereby adopted as the Code of Ethics for all Idaho licensed architects. (3-20-20)T

751. -- 999. (RESERVED)