

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.39.50 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

DOCKET NO. 24-3950-2301 (ZBR CHAPTER REWRITE, FEE RULE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2024 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. The pending rule will become final and effective upon the adjournment, *sine die*, of the Second Regular Session of the Sixty-seventh Idaho Legislature.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, and Sections 54-1907, 67-2614, 67-9406, and 67-9409, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Rule 100.03.e. has been added as part of the negotiated rulemaking process. The pending rule allows for a Type IV self-declaration of specialty construction. This language was added in collaboration with stakeholders during the public comment period.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 6, 2023, Edition of the Idaho Administrative Bulletin, [Vol. 23-9, pages 451-474](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, this pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

The fees for applications, licenses, certificates, and reinstatement as designated in Rule 400 of these pending rules are authorized in Section 54-4106, Idaho Code. None of these fees are being changed as a result of this rulemaking or since being previously reviewed by the Idaho legislature.

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 impact on the State General Fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Katie Stuart, Bureau Chief- Administration, 208-577-2489.

DATED this 9th day of November, 2023.

Katie Stuart
Bureau Chief- Administration
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2489
Email: katie.stuart@dopl.idaho.gov

**DOCKET NO. 24-3950-2301 – ADOPTION OF PENDING RULE
(Zero Based Regulation (ZBR) Chapter Rewrite)**

Substantive changes have been made to the pending rule.
Italicized text indicates changes between the text of the proposed rule as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
[Volume 23-9, September 6, 2023, pages 451 through 474.](#)

This rule has been adopted as a pending rule by the agency and is now awaiting
review and final approval by the 2024 Idaho State Legislature.

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 24-3950-2301
(Only those sections or subsections that have changed from the original proposed text
are printed in this Bulletin following this notice.)**

**Note – Due to extensive reorganization of this ZBR chapter, the rule text below is presented as clean text without showing amendments in legislative format. A redline copy provided by the agency has been included at the end of the docket for transparency and can be utilized to track all edits used to formulate the pending rule.*

24.39.50 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

(BREAK IN CONTINUITY OF SECTIONS)

100. LICENSURE.

01. Renewal. ()

a. Filing Deadline. Applications for renewal of a license must be filed by the last working day of the month in which the license expires. ()

b. Extension of Time. A petition for an extension of time in which to renew must be filed by the last working day of the month in which the license expires and may be extended once for a period not to exceed sixty (60) days. Approval of a petition for extension of time authorizes operation as a contractor. ()

c. Failure to File. If the licensee fails to file a timely application for renewal or petition for extension, the license lapses and expires on the last day of the license period. Licenses not renewed in a timely manner are considered delinquent for a period of one (1) year from the last day of the license period and may be renewed at any time during that year. ()

d. Expedited Licensure. Upon an applicant's request and payment of a fee of one hundred dollars (\$100), the Division will expedite its review and determination of a license application. ()

02. Petition to change or add types of construction. A petition to change or add types of construction must be supported by evidence, satisfactory to the administrator, of work history, job performance, experience, equipment, and financial responsibility. ()

**DIV. OF OCCUPATIONAL AND PROFESSIONAL LICENSES
Rules of the Public Works Contractors License Board**

**Docket No. 24-3950-2301
Adoption of Pending Rule**

03. Application. The applicant must submit to the administrator, on such forms and in a format as the administrator prescribes. ()

a. For Class A, AA, AAA, and Unlimited license applications, financial statements must be accompanied by an independent auditor's report, or be reviewed. For Class B and CC license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For Class C and Class D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on the form provided by the administrator. ()

b. Applicants requesting a higher licensing class must provide documentation of having performed projects similar in scope and character to those for which license is requested. Licenses granted under this rule are valid for twelve (12) months from the date of issuance. ()

c. Extension of Time to File Financial Statement. The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date. A renewal application must be filed prior to the first day of the licensing period, and is valid for a period of twelve (12) months from the date of the issuance. ()

d. Financial Requirements:

| LICENSE CLASS | NET WORTH | WORKING CAPITAL |
|---------------|-------------|-----------------|
| Unlimited | \$2,000,000 | \$2,000,000 |
| AAA | \$1,200,000 | \$400,000 |
| AA | \$900,000 | \$300,000 |
| A | \$600,000 | \$200,000 |
| B | \$300,000 | \$100,000 |
| CC | \$150,000 | \$50,000 |
| C | \$50,000 | \$15,000 |
| D | \$20,000 | \$6,000 |

()

e. Type IV Self Declaration. Upon initial licensure for Type IV licensure or anytime thereafter, an applicant or licensee may voluntarily self-declare a specialty trade of craft. Any self-declaration shall not guarantee competency or otherwise construed as an endorsement to practice the scope of work by the Division of Occupational and Professional Licenses. ()

04. Examination. The Board approves all subject areas and topics to be included in the public works contractor license examination. Applicants for licensure must pass an examination as approved by the Board. ()

a. Professional Testing Services. The administrator may contract with a professional testing service to administer the examination. ()

b. Individual Qualified By Examination. Written notice that the Qualified Individual of a public works contractor has ceased to be connected with the contractor must be provided to the Administrator. ()

05. Limitations. ()

a. One License. A licensee will be permitted to hold only one (1) class of license at any given time. ()

b. Previous License Null and Void. When a licensee of one class has been issued a license of another

class, the previous license is null and void. ()

c. Total Bid Cost. The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate total of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class Unlimited, may not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids must include all bids of the subcontractors. Subcontractor bids are not considered a separate bid for the purposes of computing the bid on a given public works project. ()

d. Two or More Licensees. Two (2) or more licensees of the same class or of different classes are not permitted to combine the estimated cost or bid limit of their licenses to submit a bid in excess of the license held by either licensee. ()

06. Construction Manager Examinations. ()

a. If the applicant fails an examination, the applicant may take the examination a second time. If the applicant fails to achieve a passing grade, the applicant must wait for a period set by the Administrator before taking the examination again. The applicant must then take and pass all sections of the examination. ()

[Agency redlined courtesy copy]

24.39.50 – RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

~~**105.100. LICENSURE RENEWAL— FILING DEADLINES; PETITIONS FOR EXTENSION OF TIME TO FILE; LAPSED LICENSES.**~~

01. Renewal

a. **Filing Deadline.** Applications for renewal of a license must be filed by the last working day of the month in which the license expires.()

~~**02b.** **Extension of Time.** A petition for an extension of time in which to renew must be filed by the last working day of the month in which the license expires and may be extended once for a period not to exceed sixty (60) days. Approval of a petition for extension of time authorizes operation as a contractor. The petition must be accompanied by a fee in the amount of the prorated portion of the annual license fee for the class of license applied for, with a minimum fee of at least fifty dollars (\$50). The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and paid to the Division at the time of application for licensure. Petitions not accompanied by the required fees or filed after the license has expired will not be honored.()~~

~~**a:** The petition must specify the number of days for which the extension is being requested; however under no circumstances may an extension exceed sixty (60) days.()~~

~~**03.** **Approval of Petition.** Approval of a petition for an extension of time authorizes operation as a contractor until the administrator completes action on the renewal application, provided the application for renewal is filed with the Administrator within the extended time specified.()~~

~~**04.c.** **Failure to File.** If the licensee fails to file a timely application for renewal or petition for extension, the license lapses and expires on the last day of the license period. Licenses not renewed in a timely manner are considered delinquent for a period of one (1) year from the last day of the license period and may be renewed at any time during that year. Licenses delinquent for more than a period of one (1) year must be reinstated and the applicant for reinstatement must apply as if for a new license.()~~

~~**05d.** **Expedited Licensure.** Upon an applicant's request and payment of a fee of one hundred dollars (\$100), the Division will expedite its review and determination of a license application. The fee for this service is~~

~~required in addition to the licensing and renewal fees provided for in Section 201 of these rules and must be paid to the Division at the time of application for licensure.()~~

~~**106. SPECIAL PROVISIONS COVERED IN A PETITION TO CHANGE OR ADD TYPES OF CONSTRUCTION.**~~

~~**02. Petition to change or add types of construction.** A petition to change or add types of construction must be supported by evidence, satisfactory to the administrator, of work history, job performance, experience, equipment, and financial responsibility, and a minimum of three (3) letters of reference. The evidence of work history, job performance, experience, and financial responsibility must comply with the requirements of Subsections 110.01 and 110.02 of these rules. All of the evidence must specifically pertain to work that is similar in scope and value to that for which the change or addition is being requested.()~~

~~**107. 108.(RESERVED)**~~

~~**109. NOTICE.**~~

~~In any contested case or other matter of Board business, written notification, mailed to the licensee or the applicant at the most current address on record with the Board, constitutes sufficient notification for all purposes within Title 54, Chapter 19, Idaho Code, and these rules.()~~

~~**110. APPLICATION FOR LICENSURE DOCUMENTATION; APPRAISALS; REFERENCES; BONDING; AND FINANCIAL STATEMENTS.**~~

~~**031. Application Documentation.** To obtain a license, Ithe applicant must submit to the administrator, on such forms and in a format as the administrator prescribes, including electronically, accompanied by the required fee for the class of license applied for, a complete written application for such license. All of the information submitted by the applicant must specifically pertain to work that is similar in scope and value to that for which licensure is being requested or that is being requested in a petition to change or add types of construction. The information contained in such application forms must include:()~~

~~**a.** A complete statement of the general nature of applicant's contracting business, including a concise description of the applicant's experience and qualifications as a contractor and a list of clients for whom work has been performed; (—)~~

~~**b.** A description of the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application;(—)~~

~~**c.** A general description of applicant's machinery and equipment; and(—)~~

~~**d.** An annual financial statement, as herein defined, that covers a period of time ending no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the Board may prescribe by rule. The applicant's financial statement may be supplemented with:
()~~

~~**i.** Bonding. As authorized by Section 54 1910(e), Idaho Code, a letter from applicant's bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, including supporting documentation;(—)~~

~~**ii.** Guaranty. Documentation, satisfactory to the administrator, of the existence of a written guaranty agreement between the applicant and a third party in which the third party guarantor agrees to assume financial responsibility for payment of any obligations of the applicant for any particular project as may be determined by a court of competent jurisdiction. The guaranty agreement, along with financial statements meeting the requirements of Paragraph 110.01.c. of this rule, must be submitted with the license application.()~~

~~**ea.** For Class A, AA, AAA, and Unlimited license applications, financial statements must be accompanied by an independent auditor's report, or be reviewed. For Class B and CC license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For Class C and Class D license applications, financial statements must be accompanied by an~~

independent audit report or be reviewed, compiled, or on the form provided by the administrator, ~~and include such additional information as may be required by the administrator to determine the applicant's fitness for a license.~~
()

~~f.~~ The name, social security number, and business address of an individual applicant or, if the applicant is a partnership, its tax identification number, business address, and the names and addresses of all general partners; and if the applicant is a corporation, association, limited liability company, limited liability partnership, or other organization, its tax identification number, business address, and the names and addresses of the president, vice president, secretary, treasurer, and chief construction managing officers, or responsible managing employee.
()

~~g.b.~~ Applicants requesting a **higher** licensing class ~~higher than that for which the applicant is currently licensed~~ must provide documentation, ~~satisfactory to the administrator~~, of having performed projects; similar in scope and character to those for which license is requested. **Licenses granted under this rule are valid for twelve (12) months from the date of issuance.** The monetary value of those jobs must fall within a range not less than thirty percent (30%) below that for which the applicant is currently licensed.()

~~02.~~ **Application for Change in Licensing Class.** Requests for a licensing class higher than that for which the applicant is currently licensed must be accompanied by the information in Subsection 110.01 of these rules, and the applicable fee. Licenses granted under Subsection 110.02 of these rules are valid for a period of twelve (12) months from the date of issuance.()

~~03.c.~~ **Extension of Time to File Financial Statement.** The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date, ~~duly certified as true by the applicant, and if a partnership, limited liability company, or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer.~~ Such ~~r~~**A** renewal application must be filed prior to the first day of ~~the such renewal~~ licensing period, ~~and.~~ **In the event an extension is granted, the renewal license** is valid for a period of twelve (12) months from the date of the issuance, ~~of the renewal license.~~()

~~04.~~ **Appraisals.** ~~The administrator may require submission of an independent appraisal of any real or chattel property reported by an applicant or licensee. Such appraisals must be conducted by a disinterested person or firm established and qualified to perform such services.~~()

~~05.~~ **References.** ~~The administrator may require an applicant for an original or renewal license to furnish such personal, business, character, financial, or other written references as deemed necessary and advisable in determining the applicant's qualifications.~~()

111. FINANCIAL REQUIREMENTS.

~~The financial requirements for obtaining and maintaining a heavy, highway, building, and specialty construction license under this act must be as described in this section for each respective class. An applicant requesting a license for each class identified in this section must have a minimum net worth and possess an amount of working capital as provided in Table 111.01:~~

d. Financial Requirements:

| TABLE 111.01 – FINANCIAL REQUIREMENTS | | |
|--|---|---|
| LICENSE CLASS | NET WORTH | WORKING CAPITAL |
| Unlimited | \$1,000,000 2,000,000 | \$1,000,000 2,000,000 |
| AAA | \$600,000 1,200,000 | \$200,000 400,000 |
| AA | \$450,000 900,000 | \$150,000 300,000 |

Please Return Proof to OARC by NOON, Monday, November 27, 2023

**DIV. OF OCCUPATIONAL AND PROFESSIONAL LICENSES
Rules of the Public Works Contractors License Board**

**Docket No. 24-3950-2301
Adoption of Pending Rule**

| | | |
|----|--------------------------------------|--------------------------------------|
| A | \$ 300,000 <u>600,000</u> | \$ 100,000 <u>200,000</u> |
| B | \$ 150,000 <u>300,000</u> | \$ 50,000 <u>100,000</u> |
| CC | \$ 75,000 <u>150,000</u> | \$ 25,000 <u>50,000</u> |
| C | \$ 25,000 <u>50,000</u> | \$ 7,500 <u>15,000</u> |
| D | \$ 10,000 <u>20,000</u> | \$ 3,000 <u>6,000</u> |

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PENDING TEXT 100.03.e.

e. Type IV Self Declaration. Upon initial licensure for Type IV licensure or anytime thereafter, an applicant or licensee may voluntarily self-declare a specialty trade of craft. Any self-declaration shall not guarantee competency or otherwise construed as an endorsement to practice the scope of work by the Division of Occupational and Professional Licenses.()

~~112.~~ EXAMINATION.

~~04.~~ Examination. The Board approves all subject areas and topics to be included in the public works contractor license examination. Applicants for licensure must pass an examination as approved by the Board.
()

~~01.~~ Frequency of Conducting of Examinations.()

~~a.~~ Examinations for all classes of licenses under the Public Contractors laws and rules will be given a minimum of four (4) times each year in the Division’s three (3) office locations.()

~~b.~~ The applicant will be notified in writing of the date, time, and location at which the examinations will be given, following approval of the application.()

~~02.a.~~ Professional Testing Services. ~~In lieu of the administration by the administrator of the examination for licenses, the administrator may contract with a professional testing service to administer the examination, and require all license applicants, with the exception of Class D applicants, to pay to the testing service the fee that they have set for the examination, to take such examination at the time set by such service, and provide the Division acceptable verification of the test score. In such instances, the Division may charge and retain the application fee provided for by Section 54-1911, Idaho Code, to cover the cost of reviewing the applicant’s application.~~ ()

~~a.~~ Class D applicants will utilize the existing in-house, open book examination.()

~~b.~~ Class D licensees pursuing an upgrade must reapply and pass the examination administered by the professional testing service.()

~~03.~~ Required Score. The applicant must receive a final grade of seventy percent (70%) or higher prior to issuance of the appropriate license.()

~~04.~~ Failed Examinations.()

~~a.~~ An applicant receiving less than a passing score on a first or second examination may be reexamined without reapplication.()

~~b. Before being reexamined after failing an examination the third time, an applicant must resubmit the application and fee.()~~

~~e. Before being reexamined after any further failures, an applicant for reexamination must wait until the expiration of sixty (60) days from the date of the failed examination and resubmit the application and fee for each subsequent examination.()~~

~~113. INDIVIDUAL QUALIFIED BY EXAMINATION.~~

~~01.b. **Written Notice. Individual Qualified By Examination.** 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 must be provided to the Administrator, on forms prescribed by the Administrator indicating 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.()~~

~~114. 198.(RESERVED)~~

~~199. LIMITATIONS.~~

~~01.05. **Limitations**~~

~~a. **One License.** A licensee will be permitted to hold only one (1) class of license at any given time.()~~

~~02.b. **Previous License Null and Void.** When a licensee of one class has been issued a license of another class, the previous license is null and void.()~~

~~03.c. **Total Bid Cost.** The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate total of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class Unlimited, may not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids must include all bids of the subcontractors. Subcontractor bids are not considered a separate bid for the purposes of computing the bid on a given public works project.()~~

~~04.d. **Two or More Licensees.** Two (2) or more licensees of the same class or of different classes are not permitted to combine the estimated cost or bid limit of their licenses to submit a bid in excess of the license held by either licensee.()~~

~~06. **CONSTRUCTION MANAGER EXAMINATIONS.**~~

~~a. If the applicant fails an examination, the applicant may take the examination a second time. A grade of at least seventy-five percent (75%) is required to pass each section of the examination. If the applicant fails to score a passing grade, the applicant must pass all failed sections within one (1) year of the initial test date. If the applicant fails to achieve a passing grade in each individual section on the second examination, the applicant must wait one (1) full year for a period set by the Administrator before taking the examination again. The applicant must then take and pass all sections of the examination, (receiving no credit for sections successfully completed during the previous year).()~~

~~601. 999.(RESERVED)~~