

BUSINESS COMMITTEE

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING

DOCKET NO. 07-0205-0801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2009 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2606, 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:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 1 of the October 1, 2008 Idaho Administrative Bulletin, Vol. 08-10, pages 99 and 100.

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:
N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Steve Keys, Deputy Administrator - Operations, (208) 332-8986.

DATED this 23rd day of October, 2008.

Steve Keys, Deputy Administrator - Operations
Division of Building Safety
1090 E. Watertower St.
Meridian, ID 83642
Phone: (208) 332-8986
Fax: (208) 855-2164

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that

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Rules Governing Plumbing Safety Licensing***

***Docket No. 07-0205-0801
PENDING RULE***

this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2606, 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 October 15, 2008.

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:

The proposed rulemaking is necessary to prevent the practice of unlicensed contractors advertising their services and holding themselves out to the public that they are available to perform plumbing contracting services. It also requires those licensed persons or entities that are permitted to advertise to include their license number in the advertisement. The proposed rulemaking prevents any person or entity from advertising to engage in the business or practice of a plumbing contractor without a valid plumbing certificate (license) issued by the Division of Building Safety. It also defines what activity constitutes advertising, and requires those persons or entities with a valid certificate who properly engage in advertising to include their certificate of competency number in the advertisement.

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: None.

NEGOTIATED RULEMAKING: Pursuant to 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed rule change.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steve Keys, Deputy Administrator – Operations, (208) 332-8986.

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 October 22, 2008.

DATED this 11th day of August 2008.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE

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013. PLUMBING CONTRACTOR

01. Qualifications for Plumbing Contractor. A plumbing contractor must be certified as competent by the Idaho Plumbing Board and the administrator of the Division before he offers his service to the public. To obtain the certificate, he must first submit an acceptable application. The application must show, among other things, a provable minimum of two and one-half (2 1/2) years experience as a journeyman plumber either in the state of Idaho or another state. Such experience may be proven by the submission with the application of a photostatic copy of the license from another jurisdiction, which has been held for the required period of time. However, if the applicant is from a state which does not require or provide for formal journeyman licensing, then said experience may be proven by the submission of three (3) sworn affidavits from individuals attesting to the fact that the applicant has had at least two and one-half (2 1/2) years experience as a journeyman plumber. Applications which are incomplete in any detail will be returned as unacceptable. A compliance bond must also be on file in the Division before an examination will be given. The examination fee shall be as prescribed by Section 54-2614, Idaho Code, and must accompany the application. (8-25-88)

02. Restrictive Use of Contractor Certificate. Any individual holding a contractor certificate and designated by a firm to represent that firm for licensing purposes shall represent one (1) firm only, and shall immediately notify the Division in writing when his working arrangement with that firm has been terminated for purposes of becoming self-employed or affiliation with another firm, or for any other reason. A license holder cannot represent any other person or firm, self-employed or otherwise, than originally stated on his application for license. When a change is made, he is required to so inform the Division. Otherwise, he is guilty of transferring his license in violation of Section 54-2610, Idaho Code, and is subject to license suspension, revocation, or refusal to renew under Section 54-2608, Idaho Code, or to prosecution under the provisions of Section 54-2628, Idaho Code. (8-25-88)

03. Previous Revocation. Any applicant for a plumbing contractor's license who has previously had his plumbing contractor's license revoked for cause, as provided by Section 54-2608, Idaho Code, shall be considered as unfit and unqualified to receive a new plumbing contractor's license so long as such cause for revocation is continuing, and of such a nature that correction can be made by the applicant. (11-14-85)

04. Reviving an Expired License. Any applicant for a plumbing contractor's license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-2617, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the license prior to expiration, he violated any of the laws, rules or regulations applicable to plumbing contractors, and such violation is continuing, and of such a nature that corrections can be made by the applicant. (11-14-85)

05. Effective Dates. The effective dates of the compliance bond referred to in Subsection 013.01 of these rules shall coincide with the effective dates of the contractor's license. Proof of renewal of the compliance bond must be on file with the Division before the contractor can renew or revive his license. (4-6-05)

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06. Plumbing Contractor's Responsibility. It shall be the responsibility of the plumbing contractor to ensure that all his employees working at the plumbing trade are licensed as provided by Idaho Code and these rules. (8-25-88)

07. Advertising. Any person or entity advertising to engage in the business, trade, practice, or work of a plumbing contractor as defined in Section 54-2611, Idaho Code, who does not possess a current and valid plumbing contractor certificate of competency issued by the Division of Building Safety, shall be in violation of the licensing provisions of Title 54, Chapter 26, Idaho Code. Such conduct is punishable as a misdemeanor as prescribed by Section 54-2628, Idaho Code, and subject to civil penalties in accordance with IDAPA 07.02.07, "Rules Governing Civil Penalties," Section 011. ()

a. For the purposes of this Section, advertising shall include, but not be limited to: newspaper, telephone directory, community flier ads or notices; telephone, television, radio, internet, or door-to-door solicitations. ()

b. Any advertising, as defined in Subsection 013.07 of these rules, conducted by those persons or entities with a valid certificate of competency shall include the contractor certificate of competency number. ()