

DIVISION OF BUILDING SAFETY

IDAHO PLUMBING BOARD  
SPECIAL TELE/VIDEOCONFERENCE MEETING

OCTOBER 29, 2020



# **TENTATIVE AGENDA**

## **NOTICE OF PUBLIC MEETING**

### **IDAHO PLUMBING BOARD SPECIAL TELE/VIDEOCONFERENCE MEETING**

**Division of Building Safety  
1090 East Watertower Street, Suite 150, Meridian  
1250 Ironwood Drive, Suite 220, Coeur d'Alene  
155 North Maple Street, Blackfoot**

**db.s.idaho.gov – (208) 332-7137  
Teleconference – 877-820-7831--529619**

**Thursday, October 29, 2020**

**9:30 a.m. – 10:00 a.m. (MDT)  
8:30 a.m. – 9:00 a.m. (PDT)**

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**9:30 a.m. CALL TO ORDER – Matt Gardner, Chairman**  
o Roll Call & Introductions

#### **ACTION AGENDA**

- 1. Vote to Approve a Petition to Waive Permit Fees for Installations in Areas Affected by Wildfires – Patrick J. Grace, Deputy Administrator**

**10:00 a.m. ADJOURN**

*All times, other than beginning, are approximate and scheduled in accordance to Mountain Daylight Time (MDT), unless otherwise noted. Agenda items may shift depending on the Idaho Plumbing Board preference. 10/21/2020r*

# IDAHO PLUMBING BOARD

## Agenda Item 01

## Permit Fee Waiver Petition

**PRESENTER:** Patrick Grace, Deputy Administrator

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**OBJECTIVE:** Present a petition received by DBS to waive portions of the plumbing IDAPA rules requiring a fee for permits – in an area of the state affected by wildfires.

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**ACTION:** Vote to approve a petition to waive permit fees for installations in areas affected by wildfires.

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**BACKGROUND:** In 2020, the Idaho legislature passed S1283 which amended Idaho Code § 67-5230 and provided authority for any person to petition an agency for a waiver or variance from specified IDAPA rules based on one or more considerations further set forth in paragraph (2) of the statute. The agency may deny or approve the petition (with or without conditions) within (28) days of its submission.

On October 13, 2020, DBS received a petition for a waiver of certain permit fees (including plumbing) for those citizens in Clearwater County who may be seeking to rebuild structures as a result of damage sustained by wildfires in that area. Such a waiver has previously been granted by DBS through an executive order, but S1283 provides opportunity to utilize a new process, and review whether the Board and DBS may want to promulgate a standing rule to provide relief to citizens similarly affected in the future.

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### **PROCEDURAL**

**HISTORY:** The Board previously reviewed this issue at its September 2020 board meeting in anticipation of a petition. Since that time, a petition has been received by DBS.

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**ATTACHMENTS:** Idaho Statute 67-5230 and Petition to Waive Permit Fees

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TITLE 67  
STATE GOVERNMENT AND STATE AFFAIRS  
CHAPTER 52  
IDAHO ADMINISTRATIVE PROCEDURE ACT

**67-5230. PETITION FOR ADOPTION, AMENDMENT, REPEAL, OR WAIVER OF RULES.**

(1) Any person may petition an agency requesting the adoption, amendment, or repeal of a rule. The agency shall:

- (a) Deny the petition in writing, stating its reasons for the denial; or
- (b) Initiate rulemaking proceedings in accordance with this chapter.

(2) Any person may petition an agency for a waiver of or variance from a specified rule or rules if the granting of the waiver would not conflict with or violate Idaho law and is consistent with at least one (1) of the following considerations:

- (a) In the petitioner's specific circumstances, the application of a certain rule or rules is unreasonable and would impose undue hardship or burden on the petitioner;
- (b) The petitioner proposes an alternative that, in the opinion of the agency, will afford substantially equal protection of health, safety, and welfare intended by the particular rule for which the waiver or variance is requested; or
- (c) The waiver or variance requested would test an innovative practice or model that will, in the opinion of the agency, generate meaningful evidence for the agency in consideration of a rule change.

(3) In response to a petition filed pursuant to subsection (2) of this section, the agency shall:

- (a) Deny the petition in writing, stating the reasons for the denial; or
- (b) Approve the petition and grant a waiver of or variance from the rule, in whole or in part, and specify whether any conditions are placed on the waiver or variance or whether a specific time period for the waiver or variance is established.

(4) An agency shall approve or deny a petition filed pursuant to this section or initiate rulemaking proceedings in accordance with this chapter within twenty-eight (28) days after submission of the petition, unless the agency's rules are adopted by a multimember agency board or commission whose members are not full-time officers or employees of the state, in which case the agency shall take action on the petition no later than the first regularly scheduled meeting of the board or commission that takes place seven (7) or more days after submission of the petition. If an agency requests additional information from the petitioner, the time period specified in this subsection shall begin anew.

(5) Following the granting of a waiver or variance, the agency shall consider a rule change that will allow all similarly situated persons to derive the same benefits granted to the petitioner.

(6) An agency decision denying a petition is a final agency action.

**History:**

[(67-5230) 1965, ch. 273, sec. 6, p. 701; am. and redesign. 1992, ch. 263, sec. 21, p. 801; am. 1995, ch. 270, sec. 2, p. 869; am. 2020, ch. 277, sec. 1, p. 811.]

**Carl Crabtree**

District 7

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STATEHOUSE (208) 332-1355  
(session Only)



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**Dan Johnson**

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STATEHOUSE (208) 332-1421  
(session Only)

October 14, 2020

Mr. Ron Whitney  
Administrator,  
Division of Building Safety  
1090 E Watertower, Ste 150  
Meridian, Idaho 83642

**RE: Request to Temporarily Waive Portions of IDAPA code as Allowed by Idaho Code 67-5230**

Dear Mr. Whitney,

We are writing to petition for a waiver of specific portions of IDAPA 24.39.10 – RULES OF THE IDAHO ELECTRICAL BOARD, 24.39.20 – RULES GOVERNING PLUMBING, and 24.39.70 RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS – specifically provisions related to the payment of fees for permits to make electrical, plumbing, or HVAC installations. The wildfires that have occurred in Idaho in 2020 have greatly affected certain areas of the State by destroying many structures that will need to be rebuilt for citizens and communities to return to their lives. Many residents within the affected communities are in very difficult financial positions as a result of the fires which occurred, in addition to the challenges faced by the COVID-19 pandemic, and could benefit from any assistance from government that may help them rebuild their homes and lives. In order that affected citizens may be able to rebuild as quickly as possible and restore the economic well-being and health and safety of those areas, and on behalf of those affected citizens, we petition that certain fees imposed by the Division of Building Safety for permits for plumbing, electrical and HVAC be waived to provide further relief thereto.

In accordance with Idaho Code § 67-5230(2), and on behalf of the affected citizens described herein, we make this petition and request that the provisions of the following rules related to the imposition of a fee for any applicable electrical, plumbing or HVAC permit be temporarily waived in Clearwater County.

Electrical

- 24.39.10.011.02;
- 24.39.10.012;
- 24.39.10.012.01; and
- 24.39.10.013

Plumbing

- 24.39.20.102

HVAC

- 24.39.70.051

Senate Bill 1283 passed the Idaho legislature during the 2020 Legislative Session and became law on July 1<sup>st</sup>, 2020 [<https://legislature.idaho.gov/statutesrules/idstat/title67/t67ch52/sect67-5230/>]. The bill amended Idaho Code 67-5230 to allow Idahoans to petition to have an Administrative Rule waived. The application of the specific portions of the IDAPA rules identified above would impose an undue hardship on those Idahoans described, and accordingly, should be temporarily waived. It would be our intent in making this petition that any required

inspections of such installations still be performed by the Division and requested from the property owner. Consequently, and if necessary, in the alternative we would submit that not requiring the permit fee but still performing the inspection to ensure the installation is safe and in accordance with adopted codes would also meet the criteria set forth in §64-5230 by affording substantially equal protection of health, safety and welfare intended by the Division's rules regarding permitting and inspections.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink that reads "Carl Crabtree". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Senator Carl Crabtree

A handwritten signature in blue ink that reads "Dan Johnson". The signature is written in a cursive style with a prominent, sharp peak at the end.

Senator Dan Johnson