

Dear Senators ANDREASON, Coiner & Werk, and
Representatives BLACK, Henderson & Elaine Smith:

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

IDAPA 07.01.03 - Rules of Electrical Licensing and Registration - General

(Docket No. 07-0103-0801);

07.02.04 - Rules Governing Plumbing Safety Inspections

(Docket No. 07-0204-0801);

07.03.01 - Rules of Building Safety (Docket No. 07-0301-0801).

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 8-7-08. 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 9-4-08.

_____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 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

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

FROM: Research & Legislation Staff - Eric Milstead

DATE: July 18, 2008

SUBJECT: Division of Building Safety

The Division of Building Safety has submitted rules as discussed below.

1. IDAPA 07.01.03 - Rules of Electrical Licensing and Registration - General (Docket No. 07-0103-0801)

The Division of Building Safety submits notice of proposed rulemaking at IDAPA 07.01.03 - Rules of Electrical Licensing and Registration. According to the Division, the proposed rule will prevent unlicensed contractors from advertising their services and holding themselves out as being able to perform services that are legally reserved to licensed contractors. The Division states that negotiated rulemaking was not conducted because of the simple nature of the proposed change.

Specifically, the proposed rule revises definitions related to the term “electrical contracting” to include certain advertising as attempting to act as an electrical contractor. (See, Proposed Rule Section 015.03.b and .d.)

The Division’s proposed rule appears to be authorized pursuant to Section 54-1006, Idaho Code.

2. IDAPA 07.02.04 - Rules Governing Plumbing Safety Inspections (Docket No. 07-0204-0801)

The Division of Building Safety submits notice of proposed rulemaking at IDAPA

07.02.04 - Rules Governing Plumbing Safety Inspections. The Division states that the changes reflected in the proposed rule will, by revising the number of inspection stickers required for multiple inspections, reduce expenses associated with multicolored inspection tags. The Division states that negotiated rulemaking was not conducted due to the simple nature of the changes made.

Specifically, the proposed rule eliminates the requirement of different colored tags for multiple inspections (e.g., ground work inspections, rough-in inspections, and final inspections). The proposed rule authorizes the use of a single inspection sticker for multiple inspections from multiple trades.

The Division's proposed rule appears to be authorized pursuant to Section 54-2606, Idaho Code.

3. IDAPA 07.03.01 - Rules of Building Safety (Docket No. 07-0301-0801)

The Division of Building Safety submits notice of temporary and proposed rulemaking at IDAPA 07.03.01 - Rules of Building Safety. The proposed rule adopts and incorporates by reference the 2006 editions of the International Building Code, International Residential code and International Existing Building Code.

The Division's proposed rule appears to be authorized pursuant to Sections 39-4107 and 39-4109, Idaho Code.

cc: Division of Building Safety
Steve Keys

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.03 - RULES OF ELECTRICAL LICENSING AND REGISTRATION - GENERAL

DOCKET NO. 07-0103-0801

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 54-1003 and 54-1006, 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 August 20, 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:

This rulemaking is intended to prevent the growing practice of unlicensed contractors advertising their services and holding themselves out to the public that they are available to perform electrical contracting services. The rule is being amended to include any person or entity that advertises electrical contracting services among those that are considered to be acting or attempting to act as an electrical contractor requiring a license.

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 IDAPA 04.11.01.811, 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 August 27, 2008.

DATED this 3rd day of July, 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 IS THE TEXT OF DOCKET NO. 07-0103-0801

015. ELECTRICAL CONTRACTOR

01. Qualifications for Electrical Contractor.

(4-7-91)

a. On and after July 1, 2008, except as hereinafter provided, any person, partnership, company, firm, association, or corporation shall be eligible to apply for an electrical contractor license upon the following requirements: (4-2-08)

i. Applicant shall have at least one (1) full-time employee who holds a valid master electrician license issued by the Electrical Bureau. Licensed electrical contractors who are current and active prior to July 1, 2008, shall not be required to have a master electrician as the supervising electrician until a new supervising electrician is designated. A master electrician license will be required for a new supervising electrician designated after July 1, 2008. (4-2-08)

ii. The master electrician shall be designated the supervising electrician and shall be available during working hours to carry out the duties of supervising, as set forth herein, and who will be responsible for supervision of electrical installations made by said company, firm, association, or corporation as provided by Section 54-1010, Idaho Code. (4-2-08)

iii. An individual electrical contractor may act as his own supervising master electrician upon the condition that he holds a valid master electrician license. (4-2-08)

iv. Applicant must pass a contractor examination administered by the Bureau or its designee. Any applicant which purports to be a non-individual (such as, corporation, partnership, company, firm, or association), must designate in writing an individual to represent the partnership, company, etc., for examination purposes. Any such designee shall be a full-time supervisory employee and may not represent any other applicant for an electrical contractor's license. (4-2-08)

v. Applicant shall provide proof of liability insurance to the Bureau in the amount of three hundred thousand dollars (\$300,000) from an insurance company licensed to do business in the state of Idaho. The liability insurance shall be in effect for the duration of the applicant's contractor licensing period. (4-2-08)

vi. Applicant shall provide to the Bureau proof of Idaho's worker's compensation insurance unless specifically exempt from Idaho law. Bureau will provide written confirmation of exemption status. (4-2-08)

b. Any person designated under Paragraph 015.01.a. of these rules, and the contractor he represents, shall each notify the Bureau in writing if the supervising master's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau within ten (10) days of the date of termination. If the supervising master's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising master is qualified by the Bureau. (4-2-08)

02. Required Signatures on Application. An application for an electrical contractor license shall be signed by the applicant or by the official representative of the partnership, company, firm, association, or corporation making the application. The application shall be countersigned by the supervising master electrician. (4-2-08)

03. Electrical Contracting Work Defined. An electrical contractor license issued by the Division of Building Safety must be obtained prior to acting or attempting to act as an electrical contractor in Idaho. (4-5-00)

a. Electrical contracting work includes electrical maintenance or repair work, in addition to new electrical installations, unless such work is expressly exempted by Section 54-1016, Idaho Code. (4-5-00)

b. Any person or entity providing performing or offering to provide perform electrical contracting services, including, but not limited to, advertising or submitting a bid shall be considered as acting or attempting to act as an electrical contractor and shall be required to be licensed. For the purposes of Section 015, advertising shall include, but not be limited to: newspaper, telephone directory, community flier ads or notices, telephone, television, radio, internet, business card, or door-to-door solicitations. (4-5-00)()

c. Any person or entity, not otherwise exempt, who performs or offers to perform electrical contracting work, is acting as an electrical contractor, whether or not any compensation is received. (4-5-00)

d. Registered general contractors who submit a bid on a multi-trade construction project that includes

a licensed electrical contractor's pricing shall not be considered to be acting or attempting to act as an electrical contractor. ()

04. Previous Revocation. Any applicant for an electrical contractor license who has previously had his electrical contractor license revoked for cause, as provided by Section 54-1009, Idaho Code, shall be considered as unfit and unqualified to receive a new electrical contractor license so long as such cause for revocation is continuing and of such nature that correction can be made by the applicant. (1-14-87)

05. Reviving an Expired License. Any applicant for an electrical contractor license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-1013, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the license prior to expiration, he violates any of the laws or rules applicable to electrical contractors. (4-1-91)

06. Qualification and Duties for Supervising Journeyman or Master. (4-2-08)

a. A master electrician shall not be considered as qualified to countersign an electrical contractor license application as the supervising master, nor shall said application be approved if he does countersign said application as the supervising master, if said master has had his Idaho electrical contractor license revoked for cause under Section 54-1009, Idaho Code. (4-2-08)

b. A supervising master shall not countersign for more than one (1) contractor. (4-2-08)

c. A journeyman who is a full time employee of a company, corporation, firm or association with an industrial account may sign as supervising journeyman for that industrial account in addition to signing as supervising journeyman for his own contractor's license so long as the journeyman is listed as the owner and complies with the provisions of Paragraphs 015.01.a. and 015.01.b. of these rules (7-1-97)

d. Duties include: assuring that all electrical work substantially complies with the National Electrical Code and other electrical installation laws and rules of the state, and that proper electrical safety procedures are followed; assuring that all electrical labels, permits, and licenses required to perform electrical work are used; assuring compliance with correction notices issued by the Bureau. (4-2-08)

07. Failure to Correct Defects in Electrical Installations. If a master countersigns an electrical contractor license application pursuant to Subsection 015.03 of these rules and thereafter willfully fails to correct defects in electrical installations he made or supervised, and such defects are within his power to correct and are not the fault of the contractor, then the Electrical Bureau shall have the power to suspend or revoke said master's license pursuant to Section 54-1009, Idaho Code. (4-2-08)

08. Overcharging of Fees. It shall be grounds for suspension or revocation of an electrical contractor license if he charges and collects from the property owner an electrical permit or inspection fee which is higher than the fee actually in effect at the time of such charging and collection, pursuant to the current Electrical Laws and Rules of the Division of Building Safety, Electrical Bureau, and the fee remitted by the contractor to the Bureau is less than the fee actually charged and collected by him. (4-6-83)

09. Termination of Supervising Master or Contractor Designee. (4-2-08)

a. Any person designated under Paragraph 015.09.a. of these rules, and the contractor he represents, shall each notify the Bureau in writing if the supervising master's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau within ten (10) days of the date of termination. If the supervising master's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another supervising journeyman is qualified by the Bureau. (4-2-08)

b. Any person designated under Paragraph 015.09.a. of these rules, and the contractor he represents, shall each notify the Bureau in writing if the designee's working relationship with the contractor has been terminated. Each notice must be filed with the Bureau within ten (10) days of the date of termination. If the designee's relationship with the contractor is terminated, the contractor's license is void within ninety (90) days unless another duly qualified designee passes the electrical contractor's examination on behalf of the contractor. (9-1-94)

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.02.04 - RULES GOVERNING PLUMBING SAFETY INSPECTIONS
DOCKET NO. 07-0204-0801
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 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 August 20, 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 rule changes will allow for the use of a single sticker for multiple inspections, from multiple trades, and will remove the color limitation from the Plumbing Bureau, eliminating unnecessary expense associated with multicolored inspection tags and allowing flexibility in the placement of the tags.

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 IDAPA 04.11.01.811, 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 August 27, 2008.

DATED this 26th day of June, 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 IS THE TEXT OF DOCKET NO. 07-0204-0801

011. REQUIRED INSPECTIONS.

01. Ground Work Inspection Tags. ~~Yellow~~ For ground work to be covered, with acceptance by the inspector. A ~~yellow~~ tag will be attached in a prominent location, preferably to a vertical riser. ~~(8-25-88)()~~

02. Rough-In Inspection Tags. *Green:* For rough-in, prior to covering or concealing with acceptance by the inspector. A ~~green~~ tag will be ~~attached to the sink waste pipe~~ placed in a prominent location. ~~(6-4-76)~~(____)

03. Final Inspection Tags. *Blue:* For final, attached when the plumbing as specified on the permit is complete and conforms to the requirements of the code. ~~(6-4-76)~~(____)

04. Inspection Tags for Unacceptable Plumbing. Red: Not acceptable, and when attached to the plumbing system means that the plumbing is not acceptable and that corrections will be required. Also, a reinspection and reinspection fee shall be required. (6-4-76)

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.03.01 - RULES OF BUILDING SAFETY

DOCKET NO. 07-0301-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 17, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-4107 and 39-4109, 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 August 20, 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Effective March 30, 2007, the Building Code Board's rulemaking adopting the 2006 editions of three international building codes was approved by the Idaho Legislature. However, the 2007 Legislature also passed House Bill No. 137 that inadvertently re-established the 2003 versions of two of these codes in Section 39-4109, Idaho Code. Unfortunately, this discrepancy was not caught at the time and both the state and local jurisdictions have been applying the 2006 editions of all three codes in reliance upon the Legislature's approval of the 2007 rulemaking. Interested parties attempted to address this situation legislatively during the 2008 session; however, the limited timeframe available precluded a solution. To address this issue until consensus legislation can be brought before the 2009 Legislature, the Board needs to exercise its statutory authority pursuant to Section 39-4107(1), Idaho Code, to readopt these later editions of two of the international codes, effective immediately. Furthermore, the rulemaking is necessary to adopt the 2006 International Existing Building Code, thereby updating this code and correcting an inaccurate statutory reference to the "existing 2003 International Building Code." This rule adopts and incorporates by reference the 2006 editions of the International Building Code, International Residential Code and International Existing Building Code.

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

This temporary rulemaking is necessary to protect the public health, safety, and welfare.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: 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: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

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

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2008.

DATED this 3rd day of July, 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 IS THE TEXT OF DOCKET NO. 07-0301-0801

004. ADOPTION AND INCORPORATION BY REFERENCE.

Under the provisions of Section 39-4109, Idaho Code, the following codes are hereby adopted and incorporated by reference into IDAPA 07.03.01, "Rules of Building Safety," Division of Building Safety. Copies of these documents may be reviewed at the office of the Division of Building Safety. The referenced codes may be obtained from International Code Council, 5360 Workman Mill Road, Whittier, California 90601-2298 or <http://www.iccsafe.org>.

~~(3-30-07)~~(6-17-08)T

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|-----------------------|---|---------------------------------|
| 01. | International Building Code. 2006 Edition. | (3-30-07) (6-17-08)T |
| 02. | International Residential Code. 2006 Edition. | (3-30-07) (6-17-08)T |
| 03. | International Energy Conservation Code. 2006 Edition. | (3-30-07) |
| 03. | International Existing Building Code. 2006 Edition. | (6-17-08)T |