

Dear Senators PATRICK, Martin, Schmidt, and  
Representatives BARBIERI, Clow, Smith:

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

IDAPA 07.02.05 - Rules Governing Plumbing Safety Licensing - Proposed Rule (Docket No.  
07-0205-1601);

IDAPA 07.02.07 - Rules Governing Civil Penalties - Proposed Rule (Docket No. 07-0207-1601).

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 10/06/2016. 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 11/04/2016.

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 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

*Serving Idaho's Citizen Legislature*

### MEMORANDUM

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

**FROM:** Principal Legislative Research Analyst - Ryan Bush

**DATE:** September 19, 2016

**SUBJECT:** Division of Building Safety

IDAPA 07.02.05 - Rules Governing Plumbing Safety Licensing - Proposed Rule (Docket No. 07-0205-1601)

IDAPA 07.02.07 - Rules Governing Civil Penalties - Proposed Rule (Docket No. 07-0207-1601)

**(1) 07.02.05 - Rules Governing Plumbing Safety Licensing - Proposed Rule (Docket No. 07-0205-1601)**

The Division of Building Safety submits notice of proposed rulemaking at IDAPA 07.02.05 - Rules Governing Plumbing Safety Licensing. This proposed rule allows an out of state journeyman plumber to apply for a certificate of competency if he has eight years of plumbing experience. Previously, such journeymen could only apply with four years of schooling and four years of experience.

The Division states that negotiated rulemaking was not conducted because the change was discussed at numerous meetings of the Plumbing Board. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to the Division in Section 54-2606, Idaho Code.

**(2) 07.02.07 - Rules Governing Civil Penalties- Proposed Rule (Docket No. 07-0207-1601)**

The Division of Building Safety submits notice of proposed rulemaking at IDAPA 07.02.07 - Rules Governing Civil Penalties. This proposed rule makes a person who holds a valid Idaho state plumbing contractor's certificate of competency subject to certain civil penalties. These contractors were previously exempt from those penalties.

The Division states that negotiated rulemaking was not conducted because the change is simple in nature and was discussed at numerous meetings of the Plumbing Board. There is no fiscal impact associated with this rulemaking.

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

The proposed rule appears to be within the statutory authority granted to the Division in Section 54-2606, Idaho Code.

cc: Division of Building Safety  
Steve Keys

**IDAPA 07 - DIVISION OF BUILDING SAFETY**  
**07.02.05 - RULES GOVERNING PLUMBING SAFETY LICENSING**  
**DOCKET NO. 07-0205-1601**  
**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 54-2605, 54-2606 and 54-2610, 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 September 21, 2016.

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 construction industry in Idaho is facing a critical shortage of skilled workers, including plumbers. As it currently stands, many plumbers come to Idaho from states that do not require schooling which leaves them unable to qualify for testing as a journeyman. This rulemaking change would allow for such a person to qualify for a journeyman's exam by demonstrating they have eight (8) years of plumbing experience, in lieu of the current requirement of four (4) years' experience and four (4) years of schooling.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the contents of this rulemaking related to the experience and education requirements for out-of-state plumbers who seek licensure as journeymen in Idaho has been discussed at numerous Plumbing Board meetings over the past several years. Initially, a rule was established and approved by the Legislature in 2015 setting forth the licensure requirements; however, after further discussion with plumbing contractors, the Board determined to further revise the requirements for out-of-state applicants. This rule provides a benefit to Idaho plumbing contractors who may need to hire journeymen who have plumbing experience acquired in another state, but who have not been required to perform schooling in that state. For those journeymen who have sufficient plumbing experience in the form of a minimum of eight (8) years' experience working as a plumbing journeyman in the trade, this rule would allow them to be eligible to take the plumbing journeyman exam in Idaho.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Keys at (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 September 28, 2016.

DATED this 4th Day of August, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
Phone: (208) 332-8986  
Fax: (877) 810-2840

1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83542

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0205-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**012. JOURNEYMAN.**

**01. Qualifications for Journeyman Plumber.** An applicant for a journeyman plumber's certificate of competency shall have at least four (4) years' experience as an apprentice making plumbing installations under the constant on-the-job supervision of a qualified journeyman plumber, as provided by Section 54-2611, Idaho Code. Pipe fitting will not be accepted as qualifications for a journeyman plumber's certificate of competency. In order to obtain a journeyman certificate of competency, an individual shall submit an application for examination and license. The application shall be accompanied by proof the applicant has completed an approved course of instruction for four (4) years as provided in Subsection 011.02 of these rules. The journeyman examination may be taken by an individual who has successfully completed an Idaho Plumbing Board-approved course of instruction for four (4) years as described in Subsection 011.03 of these rules. The examination fee shall be as prescribed by Section 54-2614, Idaho Code, and shall accompany the application. (4-11-15)

**02. Examination.** The journeyman examination grade is based on answers to written questions and practical work performed on plumbing installations as determined by the Division after successful completion of the written examination. Time allowed for the written examination is four (4) hours. A passing grade is required on the written examination. The practical portion of the exam may be performed on a job in-progress or in a laboratory setting and shall consist of work performed in either a residential or commercial application. The practical portion of the exam must pass with no violations. (4-11-15)

**03. Out of State Journeyman Applications.** (4-11-15)

**a.** Exhibition of a license issued by another recognized jurisdiction may be accepted as proof of meeting the experience and schooling requirements listed in Subsections 012.01 and 012.02 of these rules. An application for a journeyman certificate of competency from an individual previously licensed as a journeyman in another jurisdiction recognized by the Idaho Plumbing Board shall include satisfactory proof of licensure in such jurisdiction. The applicant shall pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (4-11-15)

**b.** An application for a journeyman certificate of competency from an individual who has never been previously licensed as a journeyman in a jurisdiction recognized by the Idaho Plumbing Board shall include evidence that demonstrates that the applicant has four (4) years of plumbing work experience of a nature at least equivalent to that which a plumbing apprentice must perform in Idaho, as well as four (4) years of schooling equivalent to that which a plumbing apprentice must complete in Idaho. Alternatively, such an applicant may submit proof verifying eight (8) years, defined as a minimum of sixteen thousand (16,000) hours of plumbing work experience of a nature at least equivalent to that which a plumbing apprentice must perform in Idaho. Upon submission of sufficient proof of having completed such experience and schooling requirements, such applicant shall also pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (4-11-15)( )

## **IDAPA 07 - DIVISION OF BUILDING SAFETY**

### **07.02.07 - RULES GOVERNING CIVIL PENALTIES**

**DOCKET NO. 07-0207-1601**

### **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 54-2605, 54-2606 and 54-2607, 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 September 21, 2016.

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:

Currently, plumbing contractors are exempt from being subject to a civil penalty for failing to pay for or obtain a plumbing permit prior to making a plumbing installation, as well as exempt from being subject to a civil penalty for failing to make corrections of plumbing installations when notified by the Division. As a result, short of licensure discipline, there is no recourse available to the Division if a contractor chooses not to comply with the permitting and inspection requirements in statute or rule. This rulemaking puts contractors on equal footing with plumbing specialty contractors and homeowners who are already subject to civil penalties for the same violations.

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature. This rulemaking was discussed at several Plumbing Board meetings over the course of the last year, and no opposition to it was made. The rulemaking includes plumbing contractors among those who may receive a civil penalty for certain violations of the plumbing statutes and rules.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Keys at (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 September 28, 2016.

DATED this 29th Day of July, 2016.

Steve Keys, Deputy Administrator – Operations  
Division of Building Safety  
1090 E. Watertower St., Ste. 150  
P. O. Box 83720  
Meridian, ID 83542  
Phone: (208) 332-8986  
Fax: (877) 810-2840

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 07-0207-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**011. CIVIL PENALTIES.**

The following acts shall subject the violator to penalties based on the following schedule. (3-24-05)

**01. Plumbing Contractor.** Except as provided by Section 54-2602, Idaho Code, any person who acts, or purports to act as a plumbing contractor, as defined by Section 54-2611(a), Idaho Code, without a valid Idaho state certificate of competency authorizing him to do so shall be subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-24-05)

**02. Certification or Registration.** Except as provided by Section 54-2602, Idaho Code, any person performing plumbing as defined in Section 54-2603, Idaho Code, without an appropriate certificate of competency or registration shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-24-05)

**03. Failure to Disclose.** Any applicant for a plumbing registration or certificate of competency who upon request fails to disclose any required information including, but not limited to, their complete licensure history or the fact that they have been previously licensed as a journeyman or master plumber in any recognized jurisdiction shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-29-12)

**04. Performance Outside Scope of Certificate.** Any specialty contractor or specialty journeyman performing plumbing installations, alterations or maintenance outside the scope of the specialty certificate of competency shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (3-24-05)

**05. Fees, Permits and Inspections.** Any person, ~~other than a person who holds a valid Idaho state plumbing contractor's certificate of competency,~~ failing to **obtain a required permit**, pay applicable fees, ~~or~~ properly post a plumbing permit, or to request an inspection of all pipes, fittings, valves, vents, fixtures, appliances, appurtenances, and water treatment installations and repairs shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand (\$1,000) for each offense thereafter. (4-2-08)( )

**06. Corrections.** Any person, ~~other than a person who holds a valid Idaho state plumbing contractor's certificate of competency,~~ who fails to make corrections in the time allotted in the notice on any plumbing installation as set forth in Section 54-2625, Idaho Code, shall be subject to a civil penalty of not more than two hundred dollars (\$200) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. (4-2-08)( )

**07. Gross Violation.** In the case of continued, repeated or gross violation of Title 54, Chapter 26, Idaho Code, or IDAPA 07.02.07, disciplinary action shall be initiated against certificate holders under this chapter or the matter shall be referred for prosecution. (3-24-05)

**08. Judicial Review.** Any party aggrieved by the final action of the Idaho Plumbing Board shall be entitled to a judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. (3-24-05)