

2013



Building

Idaho Statutes and Administrative Rules

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Building

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**TITLE 39. HEALTH AND SAFETY
CHAPTER 41. IDAHO BUILDING CODE ACT**

§ 39-4101. Legislative finding and intent

(1) Uniformity of building codes and uniformity in procedures for enforcing building safety codes throughout the state are matters of statewide concern and interest, in that uniformity would enhance elimination of obsolete, restricting, conflicting, duplicating and unnecessary regulations and requirements which could unnecessarily increase construction costs or retard the use of new materials and methods of installation or provide unwarranted preferential treatment to types or classes of materials or products or methods of construction.

(2) It is the intent of the legislature to:

(a) Promote the health, safety and welfare of the occupants or users of buildings and structures subject to this chapter;

(b) Require minimum performance standards and requirements for construction and construction materials, consistent with accepted standards of engineering, fire safety, life safety and accessibility for those with disabilities;

(c) Establish, for jurisdictions enforcing building codes pursuant to this chapter, minimum standards and requirements in terms of performance, energy efficiency, effect upon construction costs and consistency with nationally accepted standards;

(d) Permit the use of modern technical methods, devices and improvements; and

(e) Clarify and establish roles of the various jurisdictions subject to this chapter.

§ 39-4102. Short title

This chapter shall be known as "The Idaho Building Code Act."

§ 39-4103. Scope -- Exemptions

(1) This chapter authorizes the state division of building safety and local governments to adopt and enforce building codes pursuant to the provisions of this chapter.

(2) All buildings and other facilities owned by any state government agency or entity, including those owned, constructed or financed by the Idaho state building authority, shall conform to the codes adopted in this chapter, chapter 2, title 41, Idaho Code, chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, and chapter 50, title 54, Idaho Code, and shall be subject to the jurisdiction of the state division of building safety and the state fire marshal for purposes of all plan reviews, permitting and inspections. In performing such plan reviews, permitting and inspections, the division of building safety and the state fire marshal shall route building plans to affected local government agencies, and shall take into consideration local government comments and ordinances

and shall promptly notify the local jurisdictions of actions taken and the reasons therefor, and transmit to the local jurisdictions copies of final building plans.

(3) All buildings and other facilities owned by anyone other than state government agencies or entities which are constructed or renovated specifically for use or occupancy by any state agency or entity shall conform to all state adopted codes and standards. Nothing in this subsection shall limit the authority of local governments to issue permits, review plans and provide a full range of building code enforcement activities for such buildings.

(4) The following are exempt from the provisions of this chapter:

(a) Equipment used primarily for industrial chemical process purposes and for mineral extraction and mineral processing purposes. This exemption shall not include the erection and fabrication of new boilers, pressure vessels and other equipment as required to condition the building for personnel comfort and safety. Equipment in this regard shall mean and shall be limited to facilities or installations for heating, ventilating, air conditioning, refrigerating equipment, elevators, dumb-waiters, escalators, and boilers and pressure vessels associated with building heating systems.

(b) Modular buildings as defined in *section 39-4301, Idaho Code*, that are constructed in the state of Idaho for installation on building sites outside the state; provided however, that no modular building shall be installed on a building site in the state of Idaho until it has been approved and bears the insignia of approval of the division as being in compliance with the requirements set forth in chapter 43, title 39, Idaho Code.

§ 39-4104. Enforcement of law

The administrator of the division of building safety shall enforce the provisions of this chapter that apply to the state. Local governments that adopt building codes shall enforce all of the provisions of this chapter that govern application by local governments.

§ 39-4105. Definitions

As used in this chapter, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning. Where terms are not defined in this chapter and are defined in the currently adopted International Building Code published by the International Code Council, such terms shall have the meanings ascribed to them in that code:

(1) "Administrator" means the administrator of the division of building safety for the state of Idaho.

(2) "Board" means the Idaho building code board, herein created.

(3) "Building inspector" means a person who inspects buildings or structures for compliance with the provisions of this chapter.

(4) "Construction" means the erection, fabrication, reconstruction, demolition, alteration, conversion, or repair of a building, or the installation of equipment therein normally a part of the structure.

(5) "Division" means the state of Idaho division of building safety.

(6) "International Fire Code" means the International Fire Code as published by the International Code Council.

(7) "Local government" means any city or county of this state.

(8) "Manufactured home" means a structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under *42 U.S.C. section 5401 et seq.*

(9) "Mobile home" means a factory-assembled structure or structures generally constructed prior to June 15, 1976, and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation.

(10) "Telecommunications facilities" means all wires, cables, equipment, apparatus or other installations necessary to furnish service, by which there is accomplished or may be accomplished, the sending or receiving of information, data, message writing signs, signals, pictures, and sounds of all kinds, by aid of such wires, cables, equipment, apparatus or other installations, but shall not include the habitable structure in which such telecommunications facilities are housed.

§ 39-4106. Idaho building code board created -- Membership -- Appointment -- Terms -- Quorum -- Compensation -- Meetings

(1) The Idaho building code board is established within the division as an appeals, code adoption and rulemaking board, to be appointed by the governor, and shall consist of ten (10) members: one (1) member of the general public; one (1) local fire official; one (1) licensed engineer; one (1) licensed architect; two (2) local building officials, one (1) from a county and one (1) from a city; two (2) building contractors, one (1) residential contractor who is an active member of the Idaho building contractors association with construction knowledge based primarily on a work history of buildings regulated by the International Residential Code, and one (1) commercial contractor who is an active member of either the associated builders and contractors or the associated general contractors of America with construction knowledge based primarily on a work history of buildings regulated by the International Building Code; one (1) representative of the modular building industry; and one (1) individual with a disability from an organization that represents people with all types of disabilities. Board members shall be appointed for terms of four (4) years and until their successor has been appointed. Three (3) consecutive failures by a member to attend meetings of the board without reasonable cause shall constitute cause for removal of the member from the board by the

governor. Whenever a vacancy occurs, the governor shall appoint a qualified person to fill the vacancy for the unexpired portion of the term.

(2) The members of the board shall, at their first regular meeting following the effective date of this chapter and every two (2) years thereafter, elect by majority vote of the members of the board, a chairman who shall preside at meetings of the board. A majority of the currently appointed members of the board shall constitute a quorum.

(3) Each member of the board not otherwise compensated by public moneys shall be compensated as provided by *section 59-509(n), Idaho Code*, for each day spent in attendance at meetings of the board.

(4) The board shall meet for regular business sessions at the call of the administrator, chairman, or at the request of four (4) members of the board, provided that the board shall meet at least biannually.

§ 39-4107. Powers and duties

(1) The board shall continually study the operation of adopted codes, standards and rules relating to the construction of buildings or facilities under the jurisdiction of the division to ascertain their effect upon the public safety and shall support an ongoing effort to promote the uniform adoption, application and interpretation of safety, accessibility and building codes statewide. The board shall have the authority to adopt and enforce the codes specified in *section 39-4109, Idaho Code*, or later editions of such codes, and to promulgate rules in accordance with chapter 52, title 67, Idaho Code, to implement the provisions of this chapter.

(2) The board shall function as a board of appeals for the division as prescribed in the adopted building code. The board shall have no authority to waive any requirements of the codes enumerated in this chapter or in rules promulgated pursuant to this chapter. Provided further:

(a) The decisions of the board shall be final, and the board shall render all decisions and findings in writing to the appellant and the administrator within ten (10) working days of the conclusion of a hearing; and

(b) For each appeal brought before the board, the chairman shall appoint not less than three (3) members of the board to hear the appeal and render a decision and finding in the name of the board.

(3) The board shall utilize experts, consultants, and technical advisors for assistance and recommendations relative to codes, standards, and appeals.

(4) The administrator may make building code inspections for another state or local jurisdiction upon request by an appropriate building official. Such inspections shall be made in accordance with the applicable building codes of the requesting jurisdiction. Fees charged for such inspection services shall be as provided in rules promulgated by the board pursuant to chapter 52, title 67, Idaho Code.

(5) Notwithstanding the exemptions provided in subsection (4)(b) of *section 39-4103, Idaho Code*, the administrator may make inspections of modular buildings constructed in Idaho upon written request from the manufacturer.

(a) Such inspections shall be made in accordance with the codes adopted in this chapter.

(b) Inspection fees shall be as provided in *section 39-4303, Idaho Code*.

(c) The administrator of the division of building safety may issue an insignia of approval if the buildings are in compliance with the requirements set forth in chapter 43, title 39, Idaho Code.

§ 39-4108. Certification

After July 1, 2002, state and local government building inspectors, including state safety advisors, shall hold a valid certification as a building inspector or plans examiner issued by the International Code Council (ICC) or the International Conference of Building Officials (ICBO), except that a building inspector with a valid ICC or ICBO residential building inspector certification may only inspect structures regulated by the International Residential Code (IRC). A building inspector with a valid ICC or ICBO residential building inspector certification working under the supervision of an ICC or ICBO certified building inspector or plans examiner may inspect all occupancy classifications for a period not to exceed three (3) years. Any building inspector or plans examiner possessing state certification as of June 30, 2002, may continue to serve as a building inspector, without renewal, until July 1, 2005, at which time certification as an ICC or ICBO building inspector or plans examiner shall be necessary to retain inspection authority.

§ 39-4109. Application of codes

(1) The following codes are hereby adopted effective for the state of Idaho division of building safety and shall only be applied by local governments as prescribed by *section 39-4116, Idaho Code*:

(a) The 2006 International Building Code shall be in effect until such time as a subsequent version is adopted by the Idaho building code board, at which time the subsequent versions of the International Building Code as adopted and amended by the Idaho building code board through the negotiated rulemaking process as established in section 67-5221, Idaho Code, and as further provided in subsection (5) of this section and in accordance with subsections (2) and (3) herein shall be in effect:

(i) Including appendices thereto pertaining to building accessibility;

(ii) Excluding the incorporated electrical codes, mechanical code, fuel gas code, plumbing codes, fire codes or property maintenance codes other than specifically referenced subjects or sections of the International Fire Code;

(iii) Including the incorporated International Residential Code, parts I, II, III, IV and IX; International Energy Conservation Code; and rules promulgated by the board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the fair housing act accessibility guidelines shall be included; and

(b) The 2006 International Residential Code as published by the International Code Council, except for parts V, VI, VII and VIII as they pertain to mechanical, fuel gas, plumbing and electrical requirements shall be in effect, until such time as a subsequent version is adopted by the Idaho

building code board, at which time the subsequent versions of the International Residential Code as adopted and amended by the Idaho building code board through the negotiated rulemaking process provided in this section shall be in effect;

(c) The 2006 International Energy Conservation Code as published by the International Code Council shall be in effect, until such time as a subsequent version is adopted by the Idaho building code board, at which time the subsequent versions of the International Energy Conservation Code as adopted and amended by the Idaho building code board through the negotiated rulemaking process provided in this section shall be in effect; and

(d) The 2006 International Existing Building Code as published by the International Code Council shall be in effect, until such time as a subsequent version is adopted by the Idaho building code board, at which time the subsequent versions of the International Existing Building Code as adopted and amended by the Idaho building code board through the negotiated rulemaking process provided in this section shall be in effect.

(2) No amendments to the accessibility guidelines shall be made by the Idaho building code board that provide for lower standards of accessibility than those published by the International Code Council.

(3) No amendments to the International Residential Building Code shall be made by the Idaho building code board that provide for standards that are more restrictive than those published by the International Code Council.

(4) Any edition of the building codes adopted by the board will take effect on January 1 of the year following its adoption.

(5) In addition to the negotiated rulemaking process set forth in section 67-5221, Idaho Code, the board shall conduct a minimum of two (2) public hearings, not less than sixty (60) days apart. Express written notice of such public hearings shall be given by the board to each of the following entities not less than five (5) days prior to such hearing: associated general contractors of America, associated builders and contractors, association of Idaho cities, Idaho association of building officials, Idaho association of counties, Idaho association of REALTORS®, Idaho building contractors association, American institute of architects Idaho chapter, Idaho fire chiefs association, Idaho society of professional engineers, Idaho state independent living council, southwest Idaho building trades, Idaho building trades, and any other entity that, through electronic or written communication received by the administrator not less than twenty (20) days prior to such scheduled meeting, requests written notification of such public hearings.

§ 39-4110. Proposal and adoption of new standards -- Coaches -- Foamed plastics. [Repealed.]

§ 39-4111. Permits required

(1) It shall be unlawful for any person to do, or cause or permit to be done, whether acting as principal, agent or employee, any construction, improvement, extension or alteration of any build-

ing, residence or structure, coming under the purview of the division, in the state of Idaho without first procuring a permit from the division authorizing such work to be done.

(2) It shall be unlawful for any person to do, or cause or permit to be done, whether acting as principal, agent or employee, any construction, improvement, extension or alteration of any building, residence or structure in a local government jurisdiction enforcing building codes, without first procuring a permit in accordance with the applicable ordinance or ordinances of the local government.

(3) Subject to building code requirements governing accessibility, no permit shall require that any improvement, extension or alteration of any building, residence or structure include an upgrade to comply with building code requirements in unaffected existing parts of the building, residence or structure where the existing parts complied with the applicable building code in effect when such parts were constructed. This limitation shall not apply where the division or enforcing jurisdiction identifies a specific substantial safety hazard that would be created in the existing building, residence or structure by reason of the new improvement, extension or alteration, provided that any additional permitting requirement shall be limited to correcting the specific substantial safety hazard. The burden shall be upon the division or enforcing jurisdiction to prove the existence of such specific substantial safety hazard. The permit shall identify the specific hazard and the basis for determining that it is a substantial hazard.

§ 39-4112. Maximum permit fees to be assessed by the division

Building permit fees shall be as established by rules promulgated by the board. Until such rules are effective, building permit fees based on total value of the construction shall not exceed those given in table 3-A, Uniform Building Code, 1985.

§ 39-4113. Plan reviews -- Maximum fees and school inspections

(1) The administrator shall establish a program for plan review and permit issuance entirely within the division of building safety. Plan reviews shall be for the provisions of this chapter and chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, chapter 50, title 54, Idaho Code, and chapter 86, title 39, Idaho Code, pertaining to construction, alteration or repair of buildings or structures within the scope of the division's jurisdiction pursuant to this chapter. Plans for schools reviewed by the division shall not include a review for compliance with the provisions of chapter 2, title 41, Idaho Code, or for local planning and zoning requirements.

(2) Plan review fees shall be established by rules promulgated by the board. Local governments elected by school districts to perform building plan reviews for public schools as provided in this section shall not charge a fee for such review of building plans in excess of what the division has established by rule for building plan review services for public schools.

(3) Each manufacturer of commercial coaches and modular buildings shall submit the building plans for every model of such structure to the administrator for the purpose of review.

(4) (a) Public school building plans shall be approved by either the local government or the division of building safety, whichever the school district elects. Any city or county that has adopted by ordinance all the applicable codes pursuant to section 39-4109, Idaho Code, and the codes as permitted in chapter 10, title 54, Idaho Code, chapter 26, title 54, Idaho Code, and chapter 50, title 54, Idaho Code, shall be eligible to perform school plan reviews only if the following additional requirements are met: plans examiners performing building and energy code plan reviews shall hold current certification as a commercial building plans examiner by the International Code Council; examiners performing plumbing code plan reviews shall hold current certification as a plumbing inspector by the international association of plumbing and mechanical officials and shall be a licensed Idaho journeyman plumber; examiners performing electrical code plan reviews shall hold current certification as an electrical inspector by the national certification program for construction code inspectors and shall be a licensed Idaho journeyman electrician; and examiners performing mechanical code plan reviews shall hold current certification as a commercial mechanical inspector by the International Code Council.

(b) All plans examiners who perform public school plan reviews shall be either an employee of the division, an employee of the local jurisdiction in which the school is to be constructed, or performing plan reviews under an interagency contract between local jurisdictions, and shall meet the eligibility requirements as provided in subsection (4)(a) of this section.

(c) An eligible local government may contract with the division for review of any portion of the plans for which the local government does not have a properly certified plans examiner. A county may be deemed eligible to perform plan review services only for those types of installations for which they have authority pursuant to this chapter and chapter 50, title 54, Idaho Code, to adopt an enforcement program. Where an eligible county performs the plan review services, the electrical and plumbing code plan reviews shall be performed by the division at the hourly rate as established in rule by the division. Any local government elected to perform plan review services for public schools shall provide the division a copy of all approved plans.

(d) Wherein the proposed work is valued in excess of one hundred thousand dollars (\$100,000), a school district may elect to utilize the school plan review services available from an eligible local government building code enforcement jurisdiction or from the division. Wherein the proposed work is valued at one hundred thousand dollars (\$100,000) or less, a school district may elect to use a local government without regard to the eligibility requirements in subsection (4)(a) of this section. Election by a school district shall be made by submitting a written certification to both the division and the involved local government.

(e) Public school plan review services provided by either the division or an eligible local jurisdiction pursuant to this section shall include a review of the following disciplines: building structural and nonstructural), mechanical, fuel gas, plumbing, electrical, accessibility, elevators, boilers, and energy conservation. At a minimum, plan review services shall include:

- (i) A technical examination of all drawings and construction documents; and
- (ii) The approval of such drawings and construction documents by determining whether such are in accord with the codes adopted pursuant to sections 394109, 541001, 542601 and 45001, Idaho Code, as well as in compliance with applicable provisions of section 72722, Idaho Code; and
- (iii) A determination that the drawings and construction documents are in compliance, or noncompliance, with the applicable codes, code interpretation, and the identification of approved modifications or alternative materials, design or methods; and
- (iv) The identification of the reviewing official(s), the date upon which plans are approved, as well as a stamp or some other similar mark on the plans evidencing approval.

(f) If a school district elects to utilize the plan review services of the division, it shall submit to the division of building safety three (3) sets of working drawings and specifications for new public school buildings or facilities and additions or alterations to existing facilities. The division will review the plans submitted to it pursuant to this section for compliance with the current editions of the codes specified in this chapter or within rules promulgated pursuant to this chapter by the board and by *section 39-8006, Idaho Code*.

(5) Public school building plans must be approved by either the local government or the division before the school district may advertise for bids. Once plans are reviewed and approved pursuant to this section, no material change can be made to such plans without review and approval of such change by the jurisdiction performing the plan review. All school construction or remodeling governed by this chapter shall be inspected by building inspectors certified in accordance with *section 39-4108, Idaho Code*, or by Idaho licensed architects or engineers to determine compliance with this chapter and the Idaho uniform school building safety act, chapter 80, title 39, Idaho Code. Nothing in this section shall limit the authority of local governments to issue building permits, perform fire code or other zoning and land use related plan reviews or provide a full range of building code enforcement activities as they relate to inspections of school buildings or facilities sited within their jurisdiction regardless of the election exercised by the school district pursuant to this section.

§ 39-4114. Fees. [Repealed.]

§ 39-4115. Personnel

The division shall designate a nonclassified employee to serve as the executive director of the board and such other personnel as necessary to effect enforcement of the codes herein enumerated or otherwise prescribed by rules promulgated by the board pursuant to this chapter.

§ 39-4116. Local government adoption and enforcement of building codes

(1) Local governments enforcing building codes shall do so only in compliance with the provisions of this section. Local governments that have not previously instituted and implemented a code enforcement program prior to the effective date of this act may elect to implement a building code enforcement program by passing an ordinance evidencing the intent to do so. Local governments may contract with a public or private entity to administer their building code enforcement program.

(2) Local governments that issue building permits and perform building code enforcement activities shall, by ordinance effective January 1 of the year following the adoption by the Idaho building code board, adopt the following codes as published by the International Code Council together with any amendments or revisions set forth in section 39-4109, Idaho Code, including subsequent versions of the International Building Code as adopted and amended by the Idaho building board through the negotiated rulemaking process provided in this chapter:

(a) International Building Code, including all rules promulgated by the board to provide equivalency with the provisions of the Americans with disabilities act accessibility guidelines and the federal fair housing act accessibility guidelines;

- (b) International Residential Code, parts I-IV and IX; and
- (c) International Energy Conservation Code.

Local governments are not required by this chapter to adopt the other referenced codes in the International Building Code.

(3) All Single family homes and multiple family dwellings up to two (2) units are hereby exempted from the provisions of the International Fire Code, the International Building Code and the International Residential Code that require such dwellings to have automatic fire sprinkler systems installed. Nothing in this section shall prevent any person from voluntarily installing an automatic fire sprinkler system in any residential dwelling.

(4) Local governments may amend by ordinance the adopted codes or provisions of referenced codes to reflect local concerns, provided such amendments establish at least an equivalent level of protection to that of the adopted building code. A local jurisdiction shall not have the authority to amend any accessibility provision pursuant to section 39-4109, Idaho Code, except as provided in subsection (3)(a) and (b) of this section.

(a) A local jurisdiction shall not have the authority to amend any accessibility provision pursuant to section 394109, Idaho Code.

(b) A local jurisdiction shall not adopt any provision of the International Building Code or International Residential Code or appendices thereto, that has not been adopted or that has been expressly rejected or exempted from the adopted version of those codes *by* the Idaho building code board through the negotiated rulemaking process as provided *in* section 39-4109, Idaho Code. Provided however, that, after a finding by the local jurisdiction that good cause exists for such an amendment to such codes and that such amendment is reasonably necessary, a local jurisdiction may adopt such provision by ordinance in accordance with the provisions of chapter 9, title 50, Idaho Code, and provided further that such local jurisdiction shall conduct a public hearing and, provided further, that notice of the time and place of the public hearing shall be published in the official newspaper or paper of general circulation within the jurisdiction and written notice of each of such public hearing and the proposed language shall be given by the local jurisdiction to the local chapters of the entities identified in section 39-4109(5), Idaho Code, not less than thirty (30) days prior to such hearing. In the event that *there* are no local chapters of such entities identified in section 39-4109(5), Idaho Code, within the local jurisdiction holding the hearings, the notice shall be provided to the state associations of the respective entities.

(5) Local governments shall exempt agricultural buildings from the requirements of the codes enumerated in this chapter and the rules promulgated by the board. A county may issue permits for farm buildings to assure compliance with road setbacks and utility easements, provided that the cost for such permits shall not exceed the actual cost to the county of issuing the permits.

(6) Permits shall be governed by the laws in effect at the time the permit application is received.

(7) The division shall retain jurisdiction for in-plant inspections and installation standards for manufactured or mobile homes and for in-plant inspections and enforcement of construction standards for modular buildings and commercial coaches.

§§ 39-4116A, 39-4117. Fire sprinkler systems -- Notification for inspection -- Time limit for inspection. [Repealed.]

§§ 39-4118, 39-4119. Fuel gas inspections -- Local appeals boards. [Repealed.]

§ 39-4120. Appeals to board -- Judicial review

The board shall, within twenty (20) days after receipt of notice for an appeal, hear such appeals brought before it by persons affected by any code, rule, regulation or decision applicable to buildings within the jurisdiction of the division. Such proceedings shall be governed by the provisions of chapter 52, title 67, Idaho Code. Final decisions of the board, other than code interpretations, are subject to judicial review in accordance with the provisions of chapter 52, title 67, Idaho Code.

§ 39-4121. Modular buildings -- Insignia of approval -- Installation -- Modification. [Repealed.]

§ 39-4122. Commercial coaches -- Issuance of insignia -- Cost. [Repealed.]

§ 39-4123. Zoning and site development. [Repealed.]

§ 39-4124. "Idaho building code fund" established

All money received by the division under the terms and provisions of this chapter shall be paid into the state treasury, and shall be, by the state treasurer, placed to the credit of the general fund in an account to be known as the "Idaho building code fund," and all such moneys, hereafter placed in said fund, are hereby set aside and appropriated to the division to carry into effect the provisions of this chapter.

§ 39-4125. Injunction -- Affidavit setting out nonconformity

The division may obtain from a district court having jurisdiction, a temporary injunction enjoining the construction of a building(s) or installation of modular buildings on any building site upon affidavit of the division that such building does not conform to the requirements of this chapter or to the rules adopted pursuant to this chapter or any other chapter of Idaho Code relating to building construction. The affidavit must set forth such violations in detail. The injunction may be made permanent, in the discretion of the court.

§ 39-4126. Violations misdemeanors

(1) Any person who willfully violates any provision of this chapter or who willfully violates any provisions of the codes enumerated in this chapter or rules promulgated by the administrator or the board pursuant to this chapter, is guilty of a misdemeanor, and upon conviction, shall be fined not more than three hundred dollars (\$ 300), or imprisoned for not more than ninety (90) days or by both fine and imprisonment. Violations of this chapter shall be tried in any court of competent jurisdiction within the state of Idaho.

(2) A separate violation is deemed to have occurred with respect to each building not in compliance with this chapter. Each day such violation continues constitutes a separate offense.

(3) The misdemeanor provisions of subsections (1) and (2) of this section shall not apply to manufactured homes. Violations of manufactured home construction and safety standards shall be tried in any court of competent jurisdiction.

§ 39-4127. Civil action. [Repealed.]

§ 39-4128. Reciprocity of standards with other states. [Repealed.]

§ 39-4129. Severability

If any portion of this act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than to those to which it is held invalid, shall not be affected thereby.

**§§ 39-4130, 39-4131. Duties of administrator -- Right of inspections -- Examination -- Posting -
- Restraint -- Penalty -- Injunction to prevent operations. [Repealed.]**

TITLE 39. HEALTH AND SAFETY
CHAPTER 80. UNIFORM PUBLIC SCHOOL BUILDING SAFETY

§ 39-8010. Appeal to building code advisory board

(1) The Idaho building code advisory board shall, within ten (10) days after receipt of notice for an appeal, hear such appeal brought before it by a school district affected by any finding pursuant to this chapter that there exists in a school building a violation of the uniform school building safety code, provided however, that an appeal brought pursuant to this section shall not affect the ability of the administrator to obtain an injunction pursuant to *section 39-8009, Idaho Code*. Such hearing shall be governed by the provisions of chapter 52, title 67, Idaho Code. Final decisions of the board, other than code interpretations, are subject to judicial review in accordance with the provisions of chapter 52, title 67, Idaho Code.

(2) The board shall provide reasonable interpretations of the codes enumerated in this chapter.

(3) Within ten (10) days of the conclusion of the hearing, the board shall render its findings and decisions in writing to the state superintendent of public instruction, the administrator of the division of building safety and the appealing district.

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Building Administrative Rules

Rules of Building Safety

07.03.01

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**IDAPA 07
TITLE 03
CHAPTER 01**

07.03.01 - RULES OF BUILDING SAFETY

000. LEGAL AUTHORITY.

The Idaho Building Code Board of the Division of Building Safety is authorized under Section 39-4107, Idaho Code, to promulgate rules concerning the enforcement and administration of the Idaho Building Code Act. (3-30-06)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 07.03.01, “Rules of Building Safety,” Division of Building Safety. (3-30-06)

02. Scope. These rules prescribe the criteria for enforcement and administration of the Idaho Building Code Act by the Idaho Building Code Board and the Building Bureau of the Division of Building Safety. (3-30-06)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has statements that pertain to the interpretation of the rules of this chapter. These statements are available for review and copying at the offices of the Division of Building Safety. (3-30-06)

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for administrative relief of the provisions contained herein. (3-30-06)

004. ADOPTION AND INCORPORATION BY REFERENCE.

Under the provisions of Section 39-4109, Idaho Code, the codes enumerated in this Section are hereby adopted and incorporated by reference into IDAPA 07.03.01, “Rules of Building Safety,” Division of Building Safety. The effective date of a 2009 edition of any of the codes adopted in this Section with any amendments identified thereto shall be January 1, 2011. Until such time, the 2006 edition of any such code enumerated in this Section without amendment will remain effective pursuant to Section 39-4109, Idaho Code. 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 the International Code Council at <http://www.iccsafe.org>. (3-29-10)

01. International Building Code. 2012 Edition with the following amendments: (4-4-13)

a. Delete footnote (f) contained under Table 2902.1 Minimum Number of Required Plumbing Fixtures, and replace with the following: Drinking fountains are not required for an occupant load of thirty (30) or fewer. (4-4-13)

b. Add the following footnote to Table 2902.1 Minimum Number of Required Plumbing Fixtures: (g) For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks shall not be required. (4-4-13)

02. International Residential Code. 2009 Edition with the following amendments: (4-4-13)

a. Delete the exception contained under IRC section R101.2 - Scope. (4-7-11)

b. Delete item No. 2 contained under the “Building” subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Fences not over six (6) feet (one thousand, eight hundred twenty-nine (1,829) mm) high may be exempted from the requirement for a building permit in the absence of any other applicable land use regulations governing the installation, height, type or other aspect. (4-7-11)

c. Delete item No. 7 contained under the “Building” subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Prefabricated swimming pools that are not greater than four (4) feet (one thousand, two hundred nineteen (1219) mm) deep. (4-7-11)

d. Delete IRC section R109.1.3 and replace with the following: Floodplain inspections. For construction in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, the building official is authorized to require submission of documentation of the elevation of the lowest floor, including basement, required in section R322. (3-29-10)

e. IRC Table R302.1 Exterior Walls -- delete the figures contained in the last column of the table under the heading Minimum Fire Separation Distance, and replace with the following:

Minimum Fire Separation Distance	
Walls (fire-resistance rated):	< Three (3) Feet
Walls (not fire-resistance rated):	≥ Three (3) Feet
Projections (fire-resistance rated):	< Three (3) Feet
Projections (not fire-resistance rated):	≥ Three (3) Feet

(3-29-10)

f. Delete the exception contained under IRC section R302.2 -- Townhouses, and replace with the following: Exception: A common one-hour or two-hour fire resistance rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against the exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with section R302.4. (3-29-10)

g. Delete the exception contained under IRC section R313.1 -- Townhouse automatic fire sprinkler systems, and replace with the following: Exception: Automatic residential fire sprinkler systems shall not be required in townhouses where a two-hour fire-resistance rated wall is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. (3-29-10)

h. Delete IRC section R313.2. (3-29-10)

i. Add the following to IRC section R315.2 - Where required in existing dwellings: Exceptions: 1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section; and 2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section. (4-4-13)

j. Delete IRC section R322.1.10. (3-29-10)

k. Delete IRC section R322.2.2 paragraph 2.2, and replace with the following: The total net area of all openings shall be at least one (1) square inch (645 mm²) for each square foot (0.093 m²) of enclosed area, or the opening shall be designed and the construction documents shall include a statement that the design and installation of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. (3-29-10)

l. Delete section N1102.4.3 and replace with the following: Fireplaces. New wood-burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air. (4-4-13)

03. **International Existing Building Code.** 2012 Edition. (4-4-13)

04. **International Energy Conservation Code.** 2009 Edition with the following amendments. (4-7-11)

a. Add the following footnote to the title of Table 402.1.1 - Insulation and Fenestration Requirements by Component: ^k. For residential log home building thermal envelope construction requirements see section 402.6. (4-7-11)

b. Delete section 402.4.3 and replace with the following: Fireplaces. New wood-burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air. (4-4-13)

c. Add the following section: 402.6 Residential Log Home Thermal Envelope. Residential log home construction shall comply with sections 401 (General), 402.4 (Air Leakage), 402.5 (Maximum Fenestration U-Factor and SHGC), 403.1 (Controls), 403.2.2 (Sealing), 403.2.3 (Building Cavities), sections 403.3 through 403.9 (referred to as the mandatory provisions), Section 404 (Electrical Power and Lighting Systems), and either Subparagraph 004.04.b.i., ii., or iii. as follows: (4-7-11)

i. Sections 402.2 through 402.3, 403.2.1, 404.1 and Table 402.6; (4-7-11)

ii. Section 405 Simulated Performance Alternative (Performance); or (4-7-11)

iii. REScheck (U.S. Department of Energy Building Codes Program). (4-7-11)

d. Add Table 402.6 Log Home Prescriptive Thermal Envelope Requirements By Component to be used only in accordance with Subparagraph 004.04.b.i. above to appear as follows:

TABLE 402.6
LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY COMPONENT

For SI: 1 foot = 304.8 mm.

CLIMATE ZONE	FENESTRATION U-FACTOR ^a	SKYLIGHT U-FACTOR	GLAZED FENESTRATION SHGC	CEILING R-VALUE	Min. Average LOG Size in inches	FLOOR R-VALUE	BASEMENT WALL R-VALUE ^d	SLAB R-VALUE & DEPTH ^b	CRAWL SPACE WALL R-VALUE ^d
5, 6 - High efficiency equipment path ^c	0.32	0.60	NR	49	5	30	15/19	10, 4 ft.	10/13
5	0.32	0.60	NR	49	8	30	10/13	10, 2 ft.	10/13
6	0.30	0.60	NR	49	8	30	15/19	10, 4 ft.	10/13

- a.** The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
- b.** R-5 shall be added to the required slab edge R-values for heated slabs.
- c.** 90% AFUE natural gas or propane, 84% AFUE oil, or 15 SEER heat pump heating equipment (zonal electric resistance heating equipment such as electric base board electric resistance heating equipment as the sole source for heating is considered compliant with the high efficiency equipment path).
- d.** "15/19" means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. "15/19" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. "10/13" means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

(4-7-11)

05. References to Other Codes. Where any provisions of the codes that are adopted in this Section make reference to other construction and safety-related model codes or standards which have not been adopted by the

involved authority having jurisdiction, to the extent possible, such reference should be construed as pertaining to the equivalent code or standard that has been duly adopted by such jurisdiction. (3-29-10)

005. OFFICE -- OFFICE HOURS -- STREET ADDRESS -- MAILING ADDRESS -- TELEPHONE, FACSIMILE AND WEB ADDRESS.

The principal place of business of the Division of Building Safety is in Meridian, Idaho. The office is located at 1090 E. Watertower St., Meridian, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642. The telephone number of the office is (208) 334-3896. The facsimile number of the office is (208) 855-9399. The Department website at <http://dbs.idaho.gov>. (3-30-06)

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code and are public records. (3-30-06)

007. -- 025. (RESERVED)

026. DEFINITIONS.

The terms defined in this section shall have the following meaning for all parts of this chapter, unless the context clearly indicates another meaning: (3-30-06)

01. Act. The Idaho Building Code Act, Title 39, Chapter 41, Idaho Code. (3-30-06)

02. Administrator. The administrator of the Division of Building Safety for the state of Idaho. (3-30-06)

03. Alterations or Conversions of Modular Buildings. Any change from the approved plans or installation instructions which would affect the structural, mechanical, electrical or plumbing systems of modular buildings bearing a Division insignia of approval and shall include the replacement, addition, modification or removal of any structural member, plumbing, heat-producing or electrical equipment, or installation which may effect such systems prior to first occupancy. Any such alteration or conversion shall first be approved by testing and inspection in the same manner as original systems or component parts. The following shall not constitute alteration or conversion: (3-30-06)

a. Repairs with approved replacement parts; (3-30-06)

b. Conversion of listed fuel-burning appliances in accordance with the terms of their listing;(3-30-06)

c. Replacement of equipment and appliances in kind; (3-30-06)

d. Adjustment and maintenance of equipment. (3-30-06)

04. Alterations to Manufactured Homes. The replacement, addition, and modification, or removal of any equipment or installation after sale by a manufacturer to a dealer but prior to sale by a dealer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat-producing or electrical system. It includes any modification made in a manufactured home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance "plug-in" to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not include the addition of an appliance requiring "plug-in" to an electrical receptacle, which appliance was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected. (3-30-06)

05. Alterations or Conversions of Commercial Coaches. Any change from the approved plans or installation instructions which would affect the structural, mechanical, electrical or plumbing systems of commercial coaches bearing a Division insignia of approval and shall include the replacement, addition, modification or removal of any structural member; plumbing, heat-producing or electrical equipment; or installation which may affect such systems prior to first occupancy. Any such alteration or conversion shall first be approved by testing and inspection in

the same manner as original systems or component parts. The following shall not constitute alteration or conversion: (3-30-06)

- a. Repairs with approved replacement parts; (3-30-06)
 - b. Conversion of listed fuel-burning appliances in accordance with the terms of their listing;(3-30-06)
 - c. Replacement of equipment and appliances in kind; (3-30-06)
 - d. Adjustment and maintenance of equipment. (3-30-06)
- 06. Board.** The Idaho Building Code Board created under the provisions of Title 39, Chapter 41, Idaho Code. (3-30-06)
- 07. Bureau.** The Building Bureau of the Division of Building Safety. (3-30-06)
- 08. Commercial Coach.** In order to further clarify the definition of “commercial coach” as cited in Section 39-4105(5), Idaho Code, the phrase “made so as to be readily movable as a unit on its own running gear” shall mean that the running gear shall be a permanent part of the unit and not intended to be removed or replaced, and such modular structure is used for commercial purposes. (3-30-06)
- 09. Division.** The Division of Building Safety of the state of Idaho. (3-30-06)
- 10. Equipment.** All equipment, materials, appliances, devices, fixtures, fittings or accessories installed in the manufacture and assembly of modular buildings. (3-30-06)
- 11. Field Technical Service.** Interpretation and clarification of the technical data relating to the application of these rules, but not including inspection. (3-30-06)
- 12. First Purchaser.** The first purchaser of a commercial coach for other than resale. (3-30-06)
- 13. Insignia.** A label, tab or tag issued by the Division to indicate compliance with the codes, standards, rules and regulations established for manufactured building systems, subsystems, or building elements, modular buildings, and commercial coaches. (3-30-06)
- 14. Labeled.** Equipment or other building components bearing a label or other approved marking authorized or issued for use by a recognized testing/listing or evaluation agency. (3-30-06)
- 15. Listed.** Equipment or other building components included within a current list published by a recognized testing/listing agency that maintains periodic inspection on current production of listed equipment or other building components and whose listing states either that the equipment or component complies with recognized standards or has been tested and determined to be suitable for the use intended. (3-30-06)
- 16. Listing Agency.** A person, firm, association, partnership or corporation which is in the business of listing or labeling and which maintains a periodic inspection program on current production of listed materials, and which makes available, not less frequently than annually, a published report of such listing in which specific information is included that the product has been tested to nationally approved standards and found safe for use in a specified manner. (3-30-06)
- 17. Model.** As referred to in Section 39-4113(3), Idaho Code, for modular buildings and commercial coaches shall mean a specific outside dimension and floor plan with specific structural, plumbing, electrical, and mechanical systems as designated by the manufacturer to be the standard for imitation reproduction. (3-30-06)
- 18. Testing/Listing Agency.** A person, firm, association, partnership or corporation which is:
- a. In the business of testing equipment or other building components; and (3-30-06)

b. Recognized by the Division as being qualified and equipped to conduct experimental testing in accordance with recognized standards; and (3-30-06)

c. Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry; and (3-30-06)

d. Making available, not less frequently than annually, a published report in which specific information is included stating that the equipment and systems have been tested and found safe for use in a specified manner. (3-30-06)

19. Transit Damage. Application to manufactured home means that damage encountered enroute from the place of manufacture to the dealer or first owner involving structural integrity or any repair that does not result in return to the same construction or assembly as specified in the manufacturer's design approval without additional reinforcement or change. (3-30-06)

20. State Buildings. All buildings to be constructed, altered, or repaired by or for any state of Idaho agency or entity, without regard to purpose, occupancy, or the source of funding for such construction, alteration, or repair. (3-30-06)

21. Running Gear. Springs, spring hangers, axles, bearings, wheels, brakes, rims and tires and their related hardware. (3-30-06)

22. Substantially Prefabricated or Assembled. The module or major portion of modular buildings assembled in such manner that all portions may not be inspected without disassembly or destruction of the part. (3-30-06)

23. Substantially Prefabricated or Assembled. The module or major portion of commercial coaches is assembled in such manner that all portions may not be inspected without disassembly or destruction of the part. (3-30-06)

24. Systems Plan. A design plan concept that allows the interchanging of various approved construction systems to include structural, electrical, plumbing, and mechanical aspects of the system. (3-30-06)

25. Technical Service. Conducting research, evaluation, consultation, model and systems plan reviews, interpretation and clarification by the Division of technical data relating to the application of these rules, and shall also include special field inspections that are not covered in other portions of these rules. (3-30-06)

027. PERMITS.

Building permits shall be obtained from the Division prior to the construction of structures governed by the act or rules promulgated by the Board. (3-30-06)

028. PLAN REVIEW.

01. Jurisdiction. The Division shall have exclusive jurisdiction and authority to conduct plan reviews of the construction, additions, repairs, and occupancy of all state buildings regardless of the source of funding for such construction, addition, repair, or occupancy. (3-30-06)

02. Plans Specifications. Construction documents shall be dimensioned and drawn upon suitable material. Plans may be submitted electronically or in digital format as approved by the Division. Drawing format shall be equivalent to the paper format. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that the installations will conform to the provisions of the building code and applicable laws, rules, and policies of the Division. (4-7-11)

03. Plans Not Required. Plans shall not be required for group U occupancies of Type V conventional light-frame wood construction. (3-30-06)

04. Addenda and Change Orders. (3-30-06)

a. Documents enforcing changes or modifications. Addenda, contract change orders, changes-in-work requests, and other similar written documents enforcing changes or modifications to plans or specifications, already approved by the Division, which addenda, change orders, or change-in-work requests deal with structural or fire resistance changes, or such other changes affecting code conformance, shall be submitted to the Bureau for approval. The use of the terms “addenda,” “change orders,” and “changes-in-work requests” shall not be limited exclusively to such phraseology, but shall be inclusive of such other language used in the professions which essentially have the same meaning. (3-30-06)

b. Application provisions. The provisions of this Section shall apply to that work which will be accomplished. (3-30-06)

029. FEES.
 The following fee schedule shall be applicable for the functions cited: (3-30-06)

01. Document Fees. (3-30-06)

a. The administrator shall charge such reasonable and suitable fees necessary for copies of any record, plan approval, permit, map, sketch, drawing or other instrument. (3-30-06)

b. Charges for copies of separate published documents shall be actual cost to the Division plus postage. (3-30-06)

02. Technical Service Fee. One hundred dollars (\$100) per hour. (4-7-11)

03. Modular Building Fees. Other than as herein specified in this Section, the fee schedule for modular buildings shall be as provided herein in Table 1-A, and such fees shall be based on the Freight On Board (FOB) cost to the dealer at the point of manufacture. (3-30-06)

04. Insignia Tag Fee. In instances where building permit fees are not charged for modular buildings, a one hundred dollar (\$100) fee will be charged for an insignia. (3-30-06)

05. Payment of Fees. Fees shall be paid to and collected by the Division. (3-30-06)

06. Commercial Coaches. Other than as herein specified in this Section, the fee schedule for commercial coaches shall be as provided in Table 1-A, and such fees shall be based on the Freight On Board (FOB) cost to the dealer at the point of manufacture. (3-30-06)

07. Building Permit Fees. The building permit fee for each permit shall be as set forth in the following table. The determination of value or valuation shall be made by the administrator and shall be the total value of all construction work for which a permit is issued. (4-7-11)

TABLE 1-A - BUILDING PERMIT FEES	
Total Valuation	Fee
\$1 to \$500	= \$23.50
\$501 to \$2,000	= \$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000
\$2,001 to \$25,000	= \$69.25 for the first \$2,000 plus \$14 for each additional \$1,000, or fraction thereof, to and including \$25,000
\$25,001 to \$50,000	= \$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000

TABLE 1-A - BUILDING PERMIT FEES	
Total Valuation	Fee
\$50,001 to \$100,000	= \$643.75 for the first \$50,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	= \$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	= \$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000
\$1,000,001 to \$5,000,000	= \$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof, to and including \$5,000,000
\$5,000,001 to \$10,000,000	= \$20,208.75 for the first \$5,000,000 plus \$2.75 for each additional \$1,000, or fraction thereof, to and including \$10,000,000
\$10,000,001 and up	= \$33,958.75 for the first \$10,000,000 plus \$2 for each additional \$1,000, or fraction thereof

(4-7-11)

08. Plan Review Fees. Plan review fees shall be charged at an hourly rate of one hundred dollars (\$100) per hour up to a maximum of sixty-five percent (65%) of the calculated building permit fee with a minimum required fee of forty percent (40%) of the calculated building permit fee. All requests for plan review services shall at such time be accompanied by a payment in the amount of at least forty percent (40%) of the calculated building permit fee. Upon completion of the plan review, any additional fees, above the minimum required, shall be due to the Division by the requesting party. (4-7-11)

09. Refund of Plan Review Fees. There shall be no refund of plan review fees. (3-30-06)

10. Refund of Permit Fees. The Administrator may authorize a refund of any permit fee paid which was erroneously paid or collected. The Administrator may authorize a refund of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with these rules. The Administrator shall not authorize a refund of any permit fee paid except upon written application filed by the original applicant not later than one hundred eighty (180) days after the date of permit issuance. (4-7-11)

030. RIGHT OF ENTRY.

Whenever necessary to make an inspection to enforce any of the provisions of Title 39, Chapters 40 and 41, Idaho Code, or whenever the administrator or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe, the administrator or his authorized representative shall enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Division by Title 39, Chapters 40 and 41, Idaho Code; provided that if such building or premises is occupied, he shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the administrator shall have recourse to every remedy provided by law to secure entry. (3-30-06)

031. WORK PROCEEDING WITHOUT PERMIT OR APPROVAL.

Where any work for which a permit or approval, to include plan or system approval, is required by these rules, or by the codes enumerated in Title 39, Chapter 41, Idaho Code, is started or proceeded prior to obtaining said approval or permit, and after notice to such person doing or causing such work to be done, and such person continues or causes to continue such work, the fees specified in these rules shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of Title 39, Chapters 40 or 41, or both, Idaho Code, or these rules in the execution of the work nor from any other penalties prescribed by law. (3-30-06)

032. STOP WORK ORDERS.

Whenever any work is being done contrary to any provisions of the codes enumerated in Title 39, Chapters 40 or 41, or both, Idaho Code, or contrary to these rules, the administrator or his authorized representative may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the administrator or his representative to proceed with the work. Stop work orders shall be accompanied by a notice of violation which shall state the specific violation and code reference. Stop work notices shall be red in color. (3-30-06)

033. PROHIBITED SALE OR OCCUPANCY NOTICE.

Whenever any mobile/manufactured home, commercial coach or other modular building is in violation of any of the provisions of Title 39, Chapter 40 or 41, or both, Idaho Code, or these rules, the administrator or his authorized representative may prohibit the sale or occupancy of such building, and any and all persons shall be forthwith prohibited from selling or occupying such building. Prohibited sale or occupancy notices shall be removed only on authority of the administrator or his authorized representative. Prohibited sale or occupancy notices shall be orange in color. (3-30-06)

034. REMOVAL OF ORDERS AND NOTICES; SALE, RENT, LEASE OR OCCUPANCY OF A UNIT BEARING SUCH ORDER OR NOTICE.

Removal of stop work orders, prohibited sale or occupancy notices, or the sale, rent, lease or occupancy of a building or structure, bearing such order or notice by any person not authorized by the administrator or his authorized representative, shall constitute a violation under the provisions of Section 39-4126, Idaho Code, and shall fall under the provisions of Section 18-317, Idaho Code. (3-30-06)

035. MODULAR BUILDINGS.

01. Enforcement and Administration. The administrator shall administer and enforce all the provisions of these rules. Any officer, agent or employee of the Division is authorized to enter any premises during any normal or operational hours where modular buildings are manufactured, leased, sold or offered for sale for the purpose of examining any records pertaining to quality control and inspection and may inspect any such units, equipment or installations to insure compliance with the provisions of these rules and codes enumerated in Title 39, Chapter 41, Idaho Code. When it becomes necessary, he may require that a portion of such modular building units be removed in order that an inspection may be made to determine compliance. Every manufacturer of modular buildings shall obtain prior approval and an insignia for each modular building unit to be installed in the state of Idaho. (3-30-06)

02. Alternates and Equivalents. (3-30-06)

a. Alternatives Acceptable. The provisions of these rules are not intended to prevent the use of alternate designs, materials, appliances, systems, devices, arrangements, or methods of construction not specifically prescribed by Title 39, Chapter 41, Idaho Code, or of these rules; provided, any such alternate has first been recognized by the Division. (3-30-06)

b. Satisfactory Alternatives. The Division shall recognize any such alternate if it finds that the proposed design is satisfactory and that the material, appliance, device, arrangement, method, system or method of construction is at least the equivalent in performance in quality, strength, effectiveness, fire resistance, durability and adequate for the protection of the health, safety and general welfare of the people of the state of Idaho. (3-30-06)

c. Unsatisfactory Alternatives. Recognition by the Division shall not be given if there is substantial evidence that any design, material, appliance, device, arrangement, system or method of construction does not conform to the provisions or requirements of prescribed standards or these rules; provided, however, the Division may, in order to substantiate claims for alternates, upon written request cause tests or proof of compliance to be made at the expense of the manufacturer, his agent, or the seller. (3-30-06)

d. Test Methods. Test methods shall be as specified in the standards of the codes listed in Title 39, Chapter 41, Idaho Code, or by other nationally recognized standards recognized by the Division. If there are no appropriate test methods specified in the standards listed above, the Division shall determine the test procedure. (3-30-06)

03. Permits. Prior to construction of modular buildings, appropriate building permits shall first be obtained from the Division. (3-30-06)

04. Plans. (3-30-06)

a. Specifications for Submittal. Plans shall be submitted in accordance with Subsection 028.03 of these rules. (3-30-06)

b. Nonconformance. Should the plan submittal not conform to the requirements of these rules, the applicant shall be notified in writing within fifteen (15) work days of the date they are received by the Division. Should the applicant fail to submit a completely corrected plan submittal in accordance with the information supplied by the Division within ninety (90) days of such notice, the plan submittal will be deemed abandoned and all fees submitted shall be forfeited to the Division. Subsequent submission thereafter shall be processed as a new plan submittal. (3-30-06)

c. Distribution of Approved Copies. An approved copy of the plan submittal shall be returned to the manufacturer. An approved copy shall be retained at each place of manufacture, and a copy shall be retained by the Division. (3-30-06)

d. Proprietary Information. All material submitted by the manufacturer in the form of design plans, engineering data, test results, and other design information relating to their application will be considered proprietary information and will not be released for public scrutiny except when so ordered by a court of competent jurisdiction. (3-30-06)

e. Changes to Approved Modular Building Plans. Where the manufacturer proposes to change his submitted designs or the Division rule is amended to necessitate such a change, the manufacturer shall submit changed plans for examination and approval. (3-30-06)

05. Inspections. (3-30-06)

a. Inspections at Manufacturing Plants. The Division shall conduct inspections at the manufacturing plant to determine compliance with the provisions of these rules and with Title 39, Chapter 41, Idaho Code. (3-30-06)

b. In-Plant Inspections. Due to the repetitive nature of the manufacturing process, the required inspections outlined in the International Building Code or International Residential Code may not be required if, in the opinion of the Division, compliance can be obtained by periodic inspections. The Division shall conduct periodic unannounced inspections at any manufacturing site to review any or all aspects of a manufacturer's production and inspectional control procedures. Each unit, however, shall be inspected at least once during the course of production for compliance with the adopted standards. No unit manufactured to be installed in the state of Idaho will be shipped from the point of manufacture without inspection and attached insignia. (3-30-06)

c. Field Inspections. All existing modular buildings to be installed in the state of Idaho not bearing the Division's insignia shall not be used or occupied until required Idaho insignia has been issued by the Division and properly affixed in accordance with these rules. Applicants for insignia shall obtain permits, plan approvals and inspections as required by these rules. (3-30-06)

d. Field Inspection for Alterations and Conversions. Any alteration or conversion of Division approved modular buildings after leaving the manufacturing facility shall be field inspected in accordance with this section by a the local unit of government having jurisdiction. (3-30-06)

06. Installation Inspection. In order to complete the installation of the modular building, approval and inspection of said installation by the enforcement agency having jurisdiction over the site location shall be required. (3-30-06)

a. In-Plant Inspection in Sister States. Where there is evidence that the in-plant inspectional controls

in out-of-state plants in states having reciprocal agreements with the state of Idaho are not being maintained for units to be sold or placed in Idaho, the Division reserves the right to make out-of-state inspections, and fees for such inspection as set forth in these rules shall be paid by the manufacturer. (3-30-06)

b. Field Technical Service. Any person may request field technical service and requests for such service shall be submitted to the Division in writing. (3-30-06)

07. Local Enforcement Agencies. (3-30-06)

a. Rights of Local Enforcement Agency. A local enforcement agency shall have the right to require a complete set of plans and specifications approved by the Division for each modular building to be installed within its jurisdiction, to require that all permits be obtained before delivery of any unit to a building site and to require permits for alterations, repairs or conversions of existing Division approved modular buildings. (3-30-06)

b. Limitations of Rights of Local Enforcement Agency. A local enforcement agency shall not have the right to: open for inspection any modular building or component bearing an insignia to determine compliance with any codes or ordinances; require by ordinance or otherwise that modular buildings meet any requirements not equally applicable to on-site construction; or require or charge fees for any portion of the structure completed in a construction facility remote from the building installation site. (3-30-06)

08. Insignia. (3-30-06)

a. Required Insignia. Each modular building section substantially prefabricated and assembled shall bear a Division insignia prior to leaving the manufacturing facility. Assigned insignia are not transferable and are void when not affixed as assigned. All such voided insignia shall be returned to, or may be confiscated by the Division. Insignia remain the property of the Division and may be reappropriated by the Division in the event of violation of conditions of approval. Assigned insignia affixed in the field shall be under the direction of the Division's authorized agent. (3-30-06)

b. Insignia Location. Single units shall have the insignia permanently attached below the electrical service entrance. Multiple section units shall have the insignia permanently attached on all perimeter sections to the outside wall next to the major access opening. For interior units and second story units the insignia shall be permanently attached on the interior wall next to the major access opening. (3-30-06)

c. Application for Insignia. The manufacturer shall make application for an insignia for each unit to be manufactured as required by Subsection 035.03 of this rule. The permit/insignia application shall be submitted to the Division in accordance with this section and shall include the appropriate fees. Applications shall include the serial number of each unit for which an insignia is requested. (3-30-06)

d. Alteration or Conversion. Factory alterations or conversions of an approved modular building prior to first occupancy shall NOT take place until a permit under the provisions of this section has been obtained. The jurisdiction for non-factory produced additions, repairs or alterations to modular buildings and commercial coaches built in conformance with and as prescribed in the Idaho Building Code Act, Section 39-4109, Idaho Code, once such unit has left the manufacturing facility or a dealer's lot, and bears an appropriate insignia of compliance, rests with the local unit of government having the jurisdiction for the administration and enforcement of locally adopted codes prescribed within the Idaho Building Code Act. (3-30-06)

e. Denial of Insignia. Should inspection reveal that a manufacturer is not manufacturing units according to the codes specified in Title 39, Chapter 41, Idaho Code, and these rules, and such manufacturer after having been served with a notice setting forth in what respect the provisions of the codes or rules have been violated continues to manufacture units in violation of the codes or rules, applications for new insignia shall be denied and insignia issued for units in noncompliance such manufacturer may resubmit an application for insignia. (3-30-06)

f. Removal of Insignia. In the event any unit bearing an insignia is found to be in violation of the codes enumerated in Title 39, Chapter 41, Idaho Code, or these rules, the Division may remove the insignia and shall furnish the owner or his agent with a written statement of violations. The owner or his agent shall request an inspection after making corrections to bring the unit into compliance before the Division will issue a replacement

insignia. (3-30-06)

g. Serial Number. Each commercial coach rented, leased or sold, or offered for rent, lease or sale in Idaho shall bear a legible identifying serial number in accordance with the provisions of this section which shall include the state of manufacture. Each section of a multiple modular building shall have the same identifying serial number followed by a numerical sequence identifier and letter suffix. (3-30-06)

h. Stamp of Serial Number and State of Manufacture. The unit serial number and the state of manufacture shall be stamped into the foremost cross member of all commercial coaches. Letters and numbers shall be three-eighths (3/8) inch minimum height. Numbers shall not be stamped into a hitch assembly or draw bar. The insignia shall be made of etched brass, stainless steel, anodized or alclad aluminum, or other approved material, not less than two hundredths (0.02) inches thick, and three (3) inches by one and three-fourths (1 3/4) inches minimum size, with lettering not less than one-eighth (1/8) inch high. (3-30-06)

i. Multiple Commercial Coaches. Each section of multiple commercial coaches shall have the same identifying serial number followed by a numerical sequence identifier and letter suffix. (3-30-06)

j. Data on Insignia. The date of manufacture, showing month, week and year will be shown on the insignia. Such data will be provided by the manufacturer on the application for insignia. (3-30-06)

09. Reciprocal Agreements. The provisions for insignia of compliance as specified in a written and signed reciprocal agreement between the Division and any other state shall take precedence over the provisions of these rules. (3-30-06)

036. MANUFACTURED HOMES.

01. Construction and Safety Standards. Effective June 15, 1976, the latest published edition of the Federal Manufactured Home Construction and Safety Standards and Manufactured Home Procedural and Enforcement Regulations shall be in effect for all manufactured homes manufactured within the state of Idaho, and for all new manufactured homes for sale within the state of Idaho. All new manufactured homes offered for sale within Idaho after the effective date of this section shall bear the Housing and Urban Development (H.U.D.) label as authorized in the Federal Manufactured Home procedural and enforcement regulations. Mobile homes manufactured between March 8, 1971 and June 15, 1976 offered for rent, lease, or sale within Idaho shall bear an Idaho insignia of approval. (3-30-06)

02. Inspections. (3-30-06)

a. Special Inspection. Whenever there is a transit damage or any alteration made to a certified manufactured home, or both, a special inspection shall be required of any person offering for rent, lease, or sale said manufactured home. The purpose of the inspection is to insure that the repairs or alteration, or both, do not result in the failure of the manufactured home to comply with the standards. (3-30-06)

b. Installation Inspection. Installation inspections shall be conducted by local jurisdictions in accordance with Title 44, Chapter 22, Idaho Code and the state adopted Idaho Manufactured Home Installation Standard as incorporated by reference in IDAPA 07.03.12, "Rules Governing Manufactured Home Installations," Section 004. (3-30-06)

03. Fees. (3-30-06)

a. Payment of Fees. Fees shall be paid to and collected by the Division. (3-30-06)

b. In-Plant Inspections. The charge for routine in-plant inspections shall be equal to the latest fees approved by the Department of Housing and Urban Development-Office of Manufactured Home Standards: Forty-five dollars (\$45) per floor. (4-9-09)

c. Other Inspections. For all inspections other than routine whether they be in-plant or in the field (for models produced after June 15, 1976): Seventy dollars (\$70) per hour minimum for inspection and travel time, pro-

rated to the nearest quarter hour, per diem and lodging where applicable, plus the current state rate for mileage, as approved by the State Board of Examiners and listed in the Idaho State Travel Policies and Procedures, Appendix "A," based on the round-trip distance from point of inspection and the inspector's office location. (4-9-09)

037. JURISDICTION FOR PLAN REVIEW OF STATE BUILDINGS.

Jurisdiction of the requirements for plan review for construction, additions, repairs, and occupancy of all state buildings within the state of Idaho shall remain exclusively with the Division. State buildings, for the purposes of this section, shall mean all buildings to be constructed for or by any agency of government at the state level for any purposes or occupancy, regardless of the source of funding for such construction, addition, repair, or occupancy. (3-30-06)

038. INTEGRATED DESIGN AND FUNDAMENTAL COMMISSIONING OF PUBLIC SCHOOL FACILITIES.

01. Definitions. The following definitions are intended to supplement, and should be read in conjunction with the definitions contained in Section 33-356, Idaho Code. (3-29-10)

a. Fundamental Commissioning. A quality-focused process for enhancing the delivery of a project. It makes use of a qualified third party employed directly by the building owner. (3-29-10)

b. Integrated Design. Integrated design refers to a collaborative design effort in which each of the individual architectural or engineering professionals focuses on the whole building approach, with an emphasis on optimizing the building's performance, environmental sustainability, and cost-savings, to include climate, use, loads and systems resulting in a more comfortable and productive environment, and a building that is more energy-efficient than would be realized using current best practices. (3-29-10)

02. Technical and Educational Information. Technical and educational information related to integrated design and fundamental commissioning in the form of the American Institute of Architects Integrated Project Delivery Guide; Portland Energy Conservation, Inc. (PECI) Commissioning Guides; ASHRAE Guideline 0-2005-The Commissioning Process; and the Northwest Energy Efficiency Alliance Integrated Design Special Focus on Energy Performance Guide is available at the Division office locations including 1090 E. Watertower St., Meridian, Idaho 83642, and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. A building commissioned under the prescriptive approaches defined by any of the above-named national organizations is deemed to have completed the Fundamental Commissioning process. (3-29-10)

03. Commissioning Agents. The Division has compiled and made available for public examination a list of all known third party building commissioning agents in Idaho and its contiguous states. The Division has ensured that all such commissioning agents appearing on this list have been certified by the Building Commissioning Association (BCA) or other similar certifying entity. (3-29-10)

04. Annual Optimization Review. (3-29-10)

a. A public school building which qualifies for the school building replacement value calculation pursuant to Section 33-356(5)(a), Idaho Code, shall undergo an annual optimization review each year following the first year of operations that the involved school district seeks to qualify such building for the building replacement value calculation. (3-29-10)

b. The systems within a building required to undergo annual optimization review, as well as any relevant measuring criteria for such systems, shall be formulated by the third party commissioning agent that performs the initial fundamental commissioning. The school district shall be provided with a written report from the commissioning agent identifying the systems which will be subject to the annual optimization review along with any other requirements. (3-29-10)

c. The report required above in Paragraph 038.03.b. of these rules shall include, but is not limited to, at least the following: (3-29-10)

i. Verification that the heating, ventilation, and air conditioning (HVAC) controls, dampers, valves,

sensors and other equipment used to control the system are functioning as they were at the commissioning of the building. (3-29-10)

ii. Verification that the lighting controls are functioning as they were at the commissioning of the building. (3-29-10)

iii. The requirement that any changes made to any of the controls contained on the agent's list after the initial commissioning be re-set back to the commissioned settings unless it can be demonstrated that the new settings result in greater energy efficiency. (3-29-10)

d. The annual optimization review shall be performed by persons qualified to make the required determinations and adjustments. (3-29-10)

e. The school district shall submit to the Division written verification indicating that the systems identified by the commissioning agent, including those identified in this Section are functioning as they were at the initial commissioning. Such written verification shall also identify the persons performing the optimization and their qualifications. (3-29-10)

05. Commissioning Anniversary Date. The date upon which the commissioning agent provides the school district with the required written report described in Paragraph 038.03.b. of these rules shall be the commissioning anniversary date for purposes of this Section. If a school district seeks to qualify a building for the building replacement value calculation, the annual optimization review shall be performed within thirty (30) days of the annual commissioning anniversary date following the first year the building is in operation. The written verification required by Paragraph 038.03.e. of these rules shall be received by the Division not later than sixty (60) days after the annual commissioning anniversary date. (3-29-10)

06. Fundamental Building Commissioning Requirements. (3-29-10)

a. School districts seeking to qualify a building for the building replacement value calculation shall engage a building commissioning agent. (3-29-10)

b. The commissioning agent must document the owner's requirements for each commissioned system in the facility. All HVAC and controls systems, duct work and piping, renewable and alternative technologies, lighting controls and day lighting, waste heat recovery, and any other advanced technologies incorporated in the building must be commissioned. Building envelope systems must also be verified. The owner's requirements for these systems may include efficiency targets and other performance criteria such as temperature and lighting levels that will define the performance criteria for the functional performance testing that occurs prior to acceptance. (3-29-10)

c. The commissioning agent shall include commissioning requirements in the project construction documents. This includes the scope of commissioning for the project, the systems to be commissioned, and the various requirements related to schedule, submittal reviews, testing, training, O & M manuals, and warranty reviews. (3-29-10)

d. The commissioning agent shall develop and utilize a commissioning plan. This plan must include an overview of the commissioning process for the project, a list of commissioned systems, primary commissioning participants and their roles, a communication and management plan, an outline of the scope of commissioning tasks, a list of work products, a schedule, and a description of any commissioning testing activities. (3-29-10)

e. The commissioning agent must submit a report to the owner once the commissioning plan has been executed. (3-29-10)

039. -- 999. (RESERVED)

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