

2015



Industrial Safety

**Idaho Statutes
and
Administrative Rules**

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Industrial Safety

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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(h), 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.

§ 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 (a) of this subsection.

(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 paragraph (a) of this subsection. 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;

(ii) The approval of such drawings and construction documents by determining whether such are in accord with the codes adopted pursuant to *sections 39-4109, 54-1001, 54-2601 and 54-5001, Idaho Code*

(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 employ a bureau chief, who shall in addition to his other duties, function 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. All such employees, except the bureau chief, shall be classified as prescribed in *chapter 53, title 67, Idaho Code*.

§ 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 sys-

tems 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 39-4109, 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 67. STATE GOVERNMENT AND STATE AFFAIRS
CHAPTER 23. MISCELLANEOUS PROVISIONS

§ 67-2311. Purpose of act

It is the purpose of this act to render all public buildings now or hereafter owned or maintained by the state of Idaho, or any official, department, board, commission or agency thereof reasonably free from hazards to the general public, to the state's employees, and to inmates in or attendants at such buildings.

§ 67-2312. Public buildings subject to safety inspection

The division of building safety is vested with the right of entry and inspection of all public buildings now or hereafter owned or maintained by the state or any official, department, board, commission or agency thereof, for the purpose of ascertaining unsafe or hazardous conditions therein, or in the immediate environs thereof, not only to the state's employees but to inmates therein, attendants thereat, and to the general public.

§ 67-2313. Inspections

At least once in each calendar year and at any time he deems necessary or desirable, and particularly when so directed by the governor, the administrator of the division of building safety shall inspect, or through designated representatives cause to be inspected, all state public buildings. Any such inspection shall include an appraisal of any and all unsafe or hazardous conditions, including industrial hazards, fire hazards, and hazards to the public particularly to inmates or patients, and attendants at such public buildings and adjoining public grounds.

§ 67-2314. Report of inspection

As soon as practicable after each such inspection, the administrator of the division of building safety shall make a report in writing of the results disclosed thereby to the official, department, board, commission or agency having custody or direct control of any building so inspected. If the administrator finds hazardous conditions or unsafe practices, he shall supplement his report with recommendations for their elimination or correction.

§ 67-2315. Recommendations. [Repealed.]

§ 67-2316. Duty of agency in control of buildings

The official or agency in direct control of any state public building, within twenty (20) days after receipt of such report and recommendations of the administrator of the division of building safety, shall in writing notify the division of compliance with such recommendations or correction otherwise of such hazards, or of his or its reason for failing so to do.

§ 67-2317. Hearing and decision of disputed issues

Upon the failure or refusal of the official or agency in charge of any state public building to comply with the recommendations of the administrator of the division of building safety, the administrator may hold a hearing, pursuant to the provisions for contested cases under the administrative procedure act, as provided in *sections 67-5240 et seq., Idaho Code*.

The administrator is empowered to conduct such hearing and render a decision. The administrator shall transmit a copy of the decision to the official or agency in direct control of the public building and to the governor.

§ 67-2318. Emergency expenditures

Whenever the governor shall direct an investigation under the provisions of this act and it appears to him that the division of building safety is in emergency need of the consultant services of a specialist in fire prevention methods or in corrective structural procedures, he is authorized in his discretion to pay from the appropriation herein made or from any other emergency or disaster relief fund available to him, the expense of such consultant services.

If it appears to the satisfaction of the governor that the official or agency in direct control of a public building is unable to comply with any recommendation or decision of the division of building safety because of lack of appropriated funds, the governor may order payment in whole or in part of expenses involved in the elimination or amelioration of hazards from the money herein appropriated or from any appropriation made available to him for emergency or disaster relief.

§ 67-2601A. Division of Building Safety

(1) The division of building safety will be headed by an administrator appointed by and serving at the will of the governor. The division administrator, deputy administrators and regional managers shall be nonclassified employees exempt from the provisions of *chapter 53, title 67, Idaho Code*.

(2) The administrator shall administer the following provisions and shall perform such additional duties as are imposed on him by law: *chapter 41, title 39, Idaho Code*, relating to the building code board; *chapter 40, title 39, Idaho Code*, relating to manufactured homes; *chapter 43, title 39, Idaho Code*, relating to modular buildings; *chapter 21, title 44, Idaho Code*, relating to manu-

factured home dealer and installer licensing; *chapter 25, title 44, Idaho Code*, relating to mobile home rehabilitation; *chapter 10, title 54, Idaho Code*, relating to electrical contractors and journeymen; *chapter 19, title 54, Idaho Code*, relating to licensing of public works contractors; *chapter 26, title 54, Idaho Code*, relating to plumbing and plumbers; *chapter 45, title 54, Idaho Code*, relating to public works construction management licensing; *chapter 50, title 54, Idaho Code*, relating to heating, ventilation and air conditioning systems; *chapter 80, title 39, Idaho Code*, relating to school building safety; and *chapter 86, title 39, Idaho Code*, relating to elevator safety.

(3) The administrator shall also have the authority to perform safety inspections and safety training programs for logging operations in Idaho.

(a) When an inspection reveals evidence of a condition that poses an immediate threat of serious bodily harm or loss of life to any person, the administrator may issue an order to immediately stop the work or close the facility or site where the threat exists. The safety order shall not be rescinded until after the threat has been corrected or removed.

(b) The safety order may be enforced by the attorney general in a civil action brought in the district court for the county wherein the hazardous work site or facility is located.

(c) Any person who knowingly fails or refuses to comply with such an order is guilty of a misdemeanor.

(d) The administrator shall promulgate rules adopting minimum logging safety standards and procedures for conducting inspections and safety training.

(4) In addition to safety inspections of state-owned public buildings conducted under *chapter 23, title 67, Idaho Code*, the administrator may conduct safety inspections of buildings owned or maintained by political subdivisions of the state upon receipt of a written request from the governing body of that political subdivision, subject to the availability of division resources and the requesting entity's agreement to pay the division's current fees for such an inspection.

(a) The findings of the inspection shall be reported to the governing body of the political subdivision.

(b) The administrator may promulgate rules adopting minimum safety standards and procedures for conducting such inspections, as well as fees for performing the same.

(c) For purposes of this section, "political subdivision" means any governmental unit or special district of the state of Idaho other than public school districts.

(5) In administering the laws regulating professions, trades and occupations that are devolved for administration upon the division, and in addition to the authority granted to the administrator by the laws and rules of the agencies and entities within the division, the administrator may:

(a) Revise the operating structure of the division as needed to provide efficient and appropriate services to the various professions, trades, occupations and programs administered within the division;

(b) Conduct examinations to ascertain the qualifications and fitness of applicants to exercise the profession, trade or occupation for which an examination is held; pass upon the qualifications of applicants for reciprocal licenses, certificates and authorities; prescribe rules for a fair and impartial method of examination of candidates to exercise the respective professions, trades or occupations; issue registrations, licenses and certificates; and until fees are established in rule, the administrator shall charge a fee of seventy-five dollars (\$75.00) for each examination administered;

(c) Conduct hearings on proceedings to discipline, renew or reinstate licenses, certificates or authorities of persons exercising the respective professions, trades or occupations; appoint hearing officers, administer oaths, issue subpoenas, and compel the attendance of witnesses; revoke, suspend, refuse to renew, or take other disciplinary action against such licenses, certifications or authorities; and prescribe rules to recover costs and fees incurred in the investigation and prosecution of any certificate holder, licensee or registrant of the division, its boards, bureaus and programs, in accordance with the contested case provisions of *chapter 52, title 67, Idaho Code*, and the laws and rules of the boards, bureaus and programs the division administers;

(d) Assess civil penalties as authorized;

(e) Promulgate rules establishing: a coordinated system for the issuance, renewal, cancellation and reinstatement of licenses, certificates, registrations and permits; assessment of all related fees; the terms by which fees may be prorated, if any; and procedures for the replacement of lost or destroyed licenses, certificates or registrations; and

(f) Promulgate other rules as may be necessary for the orderly administration of the chapters specified in subsection (2) of this section and such rules as may otherwise be required by those chapters as well as rules for the standardization of operating procedures.

(6) Notwithstanding any law governing any specific board, bureau or program comprising the division of building safety, each board member shall hold office until a successor has been duly appointed and qualified.

(7) The administrator shall have the authority to employ individuals, make expenditures, enter into contracts, require reports, make investigations, travel, and take other actions deemed necessary.

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**IDAPA 07
TITLE 04
CHAPTER 01**

07.04.01 - RULES GOVERNING SAFETY INSPECTIONS -- GENERAL

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to the authority granted the administrator of the Division of Building Safety by Sections 39-4104, 39-4130, and 39-4131, Idaho Code. (7-1-97)

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 07.04.01, "Rules Governing Safety Inspections - General." These rules prescribe the criteria for enforcement of Sections 39-4130, 39-4131, 67-2311, 67-2312, 67-2313, 67-2314, 67-2316, 67-2317, 72-720, 72-721, 72-722, and 72-723, Idaho Code. (7-1-97)

002. WRITTEN INTERPRETATIONS.

This agency has written interpretations of this chapter in the form of legal memoranda. (7-1-97)

003. ADMINISTRATIVE APPEALS.

There are no provisions for administrative appeal of these rules. (7-1-97)

004. -- 010. (RESERVED)

011. SAFETY INSPECTIONS.

01. Safety and Occupational Health Inspections. (7-1-97)

a. Safety advisors for the Division of Building Safety, Bureau of Logging and Industrial Safety, Industrial Safety Section, will make periodic inspections in places of employment covered by Sections 39-4130 and 39-4131, Idaho Code, to ascertain whether there exists any violation of any law of this state relating to safety or sanitary conditions or practices, or whether there is a violation of any safety standards adopted by the Industrial Commission of the state of Idaho. (7-1-97)

b. Safety advisors for the Division of Building Safety, Bureau of Logging and Industrial Safety, Industrial Safety Section, will make periodic inspections of public buildings covered by Sections 67-2311, 67-2312, 67-2313, 67-2314, 67-2316, and 67-2317, Idaho Code, and the immediate environs thereof, for the purpose of ascertaining unsafe or hazardous conditions not only to the state's employees but to inmates therein, attendants thereat, and to the general public. (7-1-97)

c. Safety Advisors for the Division of Building Safety, Bureau of Logging and Industrial Safety, Industrial Safety Section, will make periodic inspections of employment covered by Sections 72-720, 72-721, 72-722, and 72-723, Idaho Code, in support of the Industrial Commission of the state of Idaho to ascertain whether there exists any violation of any law of this state relating to safety or sanitary conditions or practices, or whether there is a violation of any safety standards adopted by the Industrial Commission of the state of Idaho. (7-1-97)

d. Safety and occupational health inspections shall be conducted using IDAPA 17.10.01, "Safety and Health Rules for Places of Public Employment," and Idaho Code as the primary standards with the following standards used as a basis for appraisals of other hazards: Uniform Building Code (UBC); Uniform Fire Code (UFC); Uniform Mechanical Code (UMC); Uniform Plumbing Code (UPC); National Electric Code (NEC); Life Safety Code; standards of the American National Standards Institute (ANSI); standards of the National Fire Protection Association (NFPA); standards of the National Institute for Occupational Safety and Health (NIOSH); 29 CFR 1910, General Industry Standards; 29 CFR 1926, Construction Standards; nationally recognized industry standards; and other nationally recognized standards and codes. (7-1-97)

02. Elevator Inspections. (7-1-97)

a. Safety Advisors for the Division of Building Safety, Bureau of Logging and Industrial Safety, Industrial Safety Section, will witness the testing of elevators and related installations. (7-1-97)

b. The inspection and testing of elevators and related installations shall be conducted in accordance with the provisions of Title 39, Chapter 86, Idaho Code; ANSI A17.1 Safety Code for Elevators and Escalators; ANSI A17.1 Handbook; ANSI A17.2.1 Inspector's Manual for Electric Elevators; ANSI A17.2.2 Inspector's Manual for Hydraulic Elevators; ANSI A17.2.3 Inspector's Manual for Escalators and Moving Walks; ANSI A17.3 Existing Elevators and Escalators; ANSI A117.1 Accessible and Usable Building and Facilities; the Uniform Building Code; and the National Electric Code. (7-1-97)

03. Boiler and Pressure Vessel Inspections. (7-1-97)

a. Boiler and pressure vessel inspections will be conducted by boiler and pressure vessel inspectors who work for an insurance company authorized to write insurance in Idaho, who are currently certified by the National Board of Boiler and Pressure Vessel Inspectors, and have a current Idaho Commission. (7-1-97)

b. The inspection of boilers and pressure vessels shall be conducted in accordance with the provisions of IDAPA 17.06.01, "Boiler and Pressure Vessel Safety Rules - General Requirements"; National Board Inspection Code; and the ASME Boiler and Pressure Vessel Code. (7-1-97)

012. -- 999. (RESERVED)

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**IDAPA 07
TITLE 09
CHAPTER 01**

07.09.01 - SAFETY AND HEALTH RULES FOR PLACES OF PUBLIC EMPLOYMENT

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to the authority granted the Division of Building Safety by Section 67-2061A, Idaho Code. (3-23-98)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 07.09.01, "Safety and Health Rules for Places of Public Employment." (3-23-98)

02. Scope. These rules shall be applicable to places of public employment as defined in Sections 72-205 and 72-207, Idaho Code. (3-23-98)

002. WRITTEN INTERPRETATIONS.

There are no written statements which pertain to the interpretation of these rules. (3-23-98)

003. ADMINISTRATIVE APPEALS.

There are no provisions for administrative appeal of these rules. The procedures for appeals in industrial safety matters are prescribed by Title 67, Chapter 52, Idaho Code. (3-23-98)

004. REQUIREMENTS.

01. Safe Workplace. Every employer shall furnish a place of employment free from recognized hazards which may cause serious injury or death to employees. Recognized hazards are those identified by state adopted and nationally recognized codes and standards. (3-23-98)

02. Safety Devices. Every employer shall furnish and use safety devices and safeguards and shall adopt and use practices, means, methods, operations, and processes which are adequate to render the place of employment safe and free of occupational health hazards. (3-23-98)

03. Posted Warnings. Every employer shall post warning signs in areas where employees are exposed to injury hazards and shall insure that employees comply with the posted warnings. (3-23-98)

04. Training and Equipment. No employer shall require an employee to go or be in any place of employment which is unsafe unless that employee has the appropriate training, is properly equipped, and is authorized to go or be in such place. (3-23-98)

05. Minimum Construction Standards. No employer, owner, or lessee of any real property shall construct or cause to be constructed any place of employment which does not meet the minimum safety requirements of state adopted and nationally recognized codes and standards. (3-23-98)

06. Training. (3-23-98)

a. It shall be the responsibility of the employer to establish and ensure a safe and healthful working environment, to establish an accident-prevention program and training program to improve the skill and competency of all employees in the area of safety and occupational health. (3-23-98)

b. Such training shall include on-the-job instruction in the safe use of powered materials-handling equipment, machine tool operations, use of hazardous/toxic materials, and operation of utility systems prior to assignment to jobs involving such exposures. (3-23-98)

005. EXTENSION OF TIME.

01. Extensions. An extension of time may be granted by the enforcing agency upon good cause shown. (3-23-98)

02. Sixty-Day Limit. An extension of time to comply with the safety and health requirements of these rules and any amendments that may be added from time to time may be granted up to sixty (60) days. (3-23-98)

03. Limit and Revocation. Such extension of time shall be limited to the particular case or cases covered in the letter of extension and may be revoked for cause. (3-23-98)

04. Requests. All requests for extension of time shall be made in writing to the Administrator of the Division of Building Safety, 1090 E. Watertower St., Suite 150, Meridian, ID 83642. (3-23-98)

006. SAFETY STANDARDS.

01. Joint Publication. The Idaho Industrial Commission and the Idaho Division of Building Safety, together with safety experts from the public and private sector, have developed and published general safety guidelines for places of public employment. (3-23-98)

02. Compilation of Standards. These guidelines have been compiled with the purpose of providing employers a resource that consolidates all pertinent safety and occupational health standards into one resource book. These guidelines shall be referred to as the Idaho General Safety and Health Standards (IGSHS). A copy may be obtained from the Division of Building Safety, Industrial Safety Section, 1090 E. Watertower St., Suite 150, Meridian, ID 83642, telephone (208) 334-3950. (3-23-98)

007. ADMINISTRATION.

01. Annual Inspections. All safety inspections of places of public employment carried out pursuant to these rules shall be done according the general guidelines set forth in the Idaho General Safety and Health Standards by personnel of the Division of Building Safety, Industrial Safety Section, on an annual basis. (3-23-98)

02. Employer Responses. An employer shall respond within twenty (20) days of receipt of any inspection report containing findings. The response shall be made to the Division of Building Safety, Industrial Safety Section, 1090 E. Watertower St., Suite 150, Meridian, ID 83642. (3-23-98)

008. -- 999. (RESERVED)

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