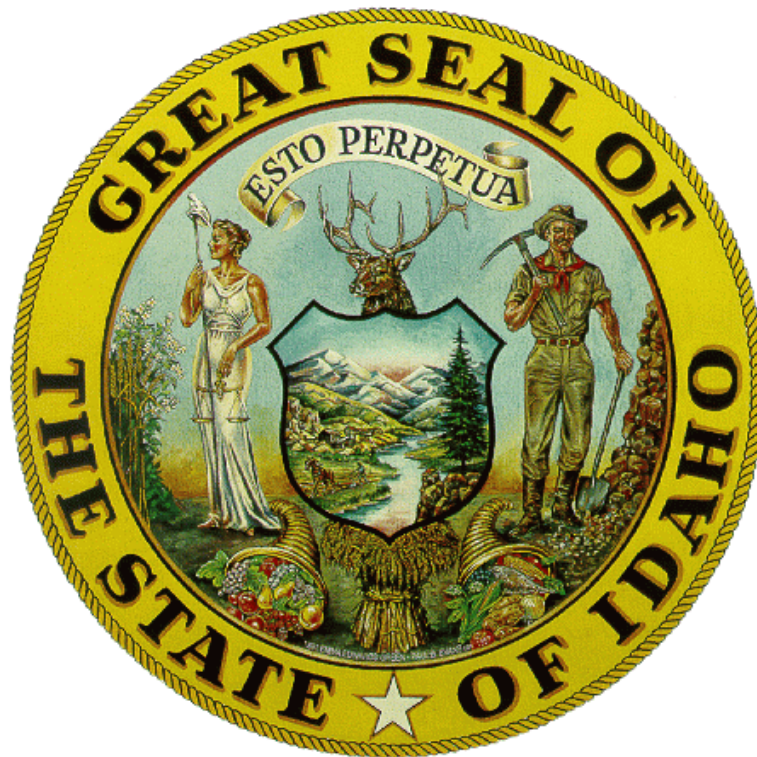


DIVISION OF BUILDING SAFETY  
SPECIAL FACTORY BUILT STRUCTURES  
ADVISORY BOARD MEETING

JUNE 15, 2021



## **TENTATIVE AGENDA**

### **NOTICE OF PUBLIC HEARING / PUBLIC MEETING**

#### **FACTORY BUILT STRUCTURES ADVISORY BOARD SPECIAL MEETING**

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

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

**Tuesday, June 15, 2021**

**11:30 a.m. – 12:30 p.m. (MDT)  
10:30 a.m. – 11:30 a.m. (PDT)**

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**11:30 a.m. CALL TO ORDER** – Markus Alley, Chairman  
○ Roll Call & Introductions

#### **PUBLIC HEARING / COMMENTS**

1. Omnibus Temporary Rule Chapter Proposal--IDAPA 24.39.31, 24.39.32, 24.39.33, and 24.39.34 – Lisa Stover, Building Program Supervisor

#### **ACTION AGENDA**

2. **Vote to Rescind Existing Temporary Rule Chapter--IDAPA 24.39.31, 24.39.32, 24.39.33, and 24.39.34 – Lisa Stover, Building Program Supervisor**
3. **Vote to Adopt Temporary Omnibus Rule Chapter--IDAPA 24.39.31, 24.39.32, 24.39.33, and 24.39.34 – Lisa Stover, Building Program Supervisor**

**12:30 p.m. ADJOURN**

*All times, other than beginning, are approximate and scheduled according to Mountain Daylight Time (MDT), unless otherwise noted. Agenda items may shift depending on Board preference. 06/11/2021rb*

# FACTORY BUILT STRUCTURES ADVISORY BOARD

## Agenda Item No. 01

## Omnibus Temporary Rules Proposal

**PRESENTER:** Lisa Stover, Building Program Supervisor

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**OBJECTIVE:** Public comment on temporary omnibus rules for modular buildings – IDAPA 24.39.31, 24.39.32, 24.39.33, and 24.39.34

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**ACTION:** Informational

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**BACKGROUND:** Administrative rule chapters presented to the 2021 legislature have not taken effect based on the actions of the legislature; the Senate adjourned *sine die* on May 12th and the House recessed subject to the call of the Speaker, no later than December 31st. Therefore, all current temporary rules, including existing fee rules, will expire upon *sine die* which could be as late as December 31st and all existing non-fee rules will expire on June 30th due to legislative inaction. Due to the circumstances, executive administrative action is needed to ensure existing rules remain in effect.

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### **PROCEDURAL HISTORY:**

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**ATTACHMENTS:** Proposed Omnibus Rules for Modular Buildings

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## 24.39.31 – RULES FOR MODULAR BUILDINGS

### 000. LEGAL AUTHORITY.

The rules are promulgated pursuant to Section 39-4302, Idaho Code. ( )

### 001. TITLE AND SCOPE.

**01. Scope.** These rules prescribe the criteria for enforcement and administration of the Idaho Modular Buildings Act by the Factory Built Structures Advisory Board and the Division of Occupational and Professional Licenses. ( )

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

The terms defined in this section have the following meaning, unless the context clearly indicates another meaning. ( )

**01. Commercial Coach.** Permanent running gear includes springs, spring hangers, axles, bearings, wheels, brakes, rims and tires and their related hardware. ( )

**04. Insignia.** A label or tag issued by the Division to indicate compliance with the codes, standards, rules, and regulations established for Modular Buildings, and Commercial Coaches. ( )

### 011. -- 026. (RESERVED)

### 027. PERMITS.

Building permits must be obtained from the Division prior to the construction of structures governed by Title 39, Chapter 43, Idaho Code, or Board rules. ( )

### 028. PLAN REVIEW.

**01. Jurisdiction.** The Division has exclusive jurisdiction and authority to conduct plan reviews of the in-plant construction of Modular Buildings. ( )

**02. Distribution of Approved Copies.** An approved copy of the plan submittal shall be retained at the manufacturer. ( )

**03. 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. ( )

**04. Revisions to Approved Modular Building Plans.** Where the manufacturer proposes to revise previously approved designs, or Division adopted rules or codes are amended to necessitate such a change, the manufacturer must submit revised plans for examination and approval. ( )

**05. Application Provisions.** The provisions of this section apply only to plans for work that will be

accomplished at the place of manufacture. ( )

**029. FEES.**

The following fees apply to the functions cited: ( )

**01. Modular Building Permit Fees.** Other than as herein specified in this section, the permit fee schedule for Modular Buildings is as provided herein in Table 1-A plus ninety dollars (\$90) and two and one-half percent (2.5%) of the plumbing, electrical, and HVAC installation costs. The determination of value or valuation is based on the total value of all construction work for which a permit is issued.

TABLE 1-A – MODULAR 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
\$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 and up		\$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof

**02. Other Inspections and Fees.** ( )

**a.** Re-inspection fees: sixty-five dollars (\$65) per hour. ( )

**b.** Inspections for which no fee is specifically indicated: sixty-five dollars (\$65) per hour. ( )

**c.** Additional plan review required by changes, additions, or revisions to plans: sixty-five dollars (\$65) per hour. ( )

**d.** For use of outside consultants for plan checking and inspections or both: actual costs. ( )

**03. Investigation Fee.** Whenever any work for which a permit is required by these rules has been commenced without first obtaining said permit, a special investigation must be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, must be collected whether or not a permit is then or subsequently issued. The investigation fee is equal to the amount of the permit fee required by these rules. The payment of such investigation fee does not exempt any person from compliance with all other provisions of these rules nor from any penalty prescribed by law. ( )

**04. Plan Review.** The Modular Building fee includes an additional amount equal to sixty-five percent (65%) of the permit fee calculated in accordance with Table 1-A. ( )

**05. Refund of Plan Review Fees.** There is no refund of plan review fees. ( )

**030. RIGHT OF ENTRY.**

Whenever necessary to make an inspection to enforce any of the provisions of Title 39, Chapter 43, 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 that makes such building or premises unsafe, the Administrator or his authorized representative may 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, Chapter 43, Idaho Code; provided that if such building or premises is occupied, he must first present proper credentials and demand entry; and if such building or premises be unoccupied, he must 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 has recourse to every remedy provided by law to secure entry. ( )

**031. REMOVAL OF ORDERS AND NOTICES PROHIBITED.**

Removal of stop work or prohibited occupancy orders or notices from a building or structure, bearing such order or notice by any person or persons not authorized by the Administrator or his authorized representative, constitute a violation under the provisions of Section 39-4306, Idaho Code, and falls under the provisions of Section 18-317, Idaho Code. ( )

**032. MODULAR BUILDINGS.**

**01. Enforcement and Administration.** 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 for the purpose of examining any records pertaining to quality control and may inspect any such units, equipment, or installations to ensure compliance with the provisions of these rules and codes enumerated in Title 39, Chapter 43, Idaho Code. Every manufacturer of Modular Buildings must obtain prior approval and an Insignia for each Modular Building unit to be installed in the state of Idaho. ( )

**02. Inspections.** ( )

**a. Inspections at Manufacturing Plants.** The Division conducts inspections at the manufacturing plant to determine compliance with the provisions of these rules and with codes adopted by Title 39, Chapter 41, Idaho Code, and Title 54, Chapters 10, 26, and 50, Idaho Code. ( )

**b. Field Inspections.** All existing Modular Buildings to be installed in the state of Idaho not bearing the Division's Insignia may 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 must obtain permits, plan approvals, and inspections as required by these rules. ( )

**c. Qualifications of Inspectors.** All inspectors performing inspections of modular buildings must be

properly certified for the type of inspection being conducted. The Factory Built Structures Board recognizes certifications granted through the National Certification Program Construction Code Inspector program (NCPCCI), the National Inspection Testing Certification program (NITC), the International Association of Electrical Inspectors (IAEI), and the International Code Council (ICC). Certifications must be current and of the proper classification for the structure or subsystem being inspected. ( )

**03. Installation Inspection.** In order to complete the installation of an Idaho approved Modular Building, approval and inspection of the installation by the enforcement agency having jurisdiction over the site location is required.

**04. Local Enforcement Agencies.** ( )

**a. Rights of Local Enforcement Agency.** A local enforcement agency has 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. After leaving the manufacturing facility, future alterations or conversions of Division approved Modular Buildings must be field inspected by the local unit of government having jurisdiction. ( )

**b. Limitations of Rights of Local Enforcement Agency.** A local enforcement agency does 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 to charge permit or plan review fees for any portion of the structure prefabricated or assembled at a place other than the Building Site. ( )

**05. Insignia.** ( )

**a. Required Insignia.** Each Modular Building section must bear a Division Insignia prior to leaving the manufacturing facility. Assigned Insignia are not transferable and are void when not affixed as assigned. Insignia remain the property of the Division. Assigned Insignia affixed in the field must be under the direction of the Division's authorized agent. ( )

**b. Serial Number.** Each Modular Building must bear a legible identifying serial number. Each section of a multiple Modular Building must have the same identifying serial number followed by a numerical sequence identifier or a letter suffix, or both. ( )

**07. Reciprocal Agreements.** The provisions for Insignia of compliance as specified in a written and signed reciprocal agreement between the Division and any other state takes precedence over the provisions of these rules. Where there is evidence that the in-plant inspection controls in out-of-state plants within states having reciprocal agreements with the state of Idaho are not being maintained for units to be 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 must be paid by the manufacturer. ( )

**033. CIVIL PENALTIES.**

The following acts subject the violator to penalties of not more than two hundred dollars (\$200) for the first offense and not more than one thousand dollars (\$1,000) for each offense thereafter based on the following schedule. ( )

**01. Installation.** Any person who transports a modular building to or installs a modular building on a building site in this state without first receiving approval and securing to the structure insignia evidencing such

approval from the Division. ( )

**02. Modification.** Any person who in any way modifies or alters a modular building prior to its initial occupancy which has previously been approved by the Division without first having received approval to do so from the Division. ( )

**03. Removal of Orders.** Any person who removes a stop work or prohibited occupancy order or notice from a building or structure bearing such order or notice. ( )

**04. Lawful Orders.** Any person who fails, neglects, or refuses to obey any lawful order issued by the Administrator or his representative, or who refuses to perform any duty lawfully enjoined upon him by the Administrator or his representative. ( )

**034. -- 999. (RESERVED)**



**24.39.32 – RULES GOVERNING MANUFACTURED HOMES –  
CONSUMER COMPLAINTS – DISPUTE RESOLUTION**

**000. LEGAL AUTHORITY.**

The rules are promulgated pursuant to Section 44-2102(4), Idaho Code. (3-20-20)

**001. SCOPE.**

**01. Scope.** The rules establish a program for the timely resolution of disputes between manufacturers, retailers and installers of manufactured homes in order to comply with Federal Housing and Urban Development regulations within 42 U.S.C. Section 5422(c)(12). (4-6-05)

**002. -- 011. (RESERVED)**

**013. INVESTIGATION.**

**01. Site Inspection.** The Division may perform a site inspection, based on the nature of a complaint or upon request of the complainant. (3-20-20)

**01. Costs.** (4-6-05)

A charge for mileage to and from the inspection site, plus an hourly charge for the time spent conducting the inspection, is assessed the manufacturer, installer, or dealer if a site inspection is made upon a request by the manufacturer, installer, or dealer, and does not involve a serious defect or imminent safety hazard.(4-6-05)

**02. Inspection Report.** Following a site inspection, the inspector will prepare a final report and include photographs. (3-20-20)

**014. ACTION.**

A notification letter and copies of the complaint form and investigation findings may be provided to all involved parties and HUD. (3-20-20)

**01. Division Action.** Any Division action, notification and follow-up are completed according to HUD guidelines. (3-20-20)

**02. License File.** If the nature of the complaint pertains to retailer contractual issues or installation problems, a copy of the complaint is to be consolidated with the appropriate Division license files. (3-20-20)

**03. Correction or Repair.** A Division building inspector will issue a report concerning correction or repair of defects that are a matter of dispute between the homeowner, retailer, installer, or manufacturer. The report will include the likely cause of the defect and identify the party responsible for creating the defect that is in need of correction or repair. (3-20-20)

**015. DECISIONS - APPEALS - INFORMAL DISPOSITION.**

**01. Decisions.** The Administrator will review the inspector's report and set forth the required corrective action and identify the party responsible for such action. The Administrator may initiate a contested case proceeding if, in his sole discretion, he determines that such a proceeding or further investigation would be of

assistance in reaching a decision. The decision must direct the responsible party to complete the required corrective action within specified timelines and consider the needs of the involved parties including, but not limited to, safety, anticipated expense and availability of funds, time of year, and convenience to the parties. (3-20-20)

**02. Appeals.** Decisions of the administrator are final orders for purposes of appeal. (4-6-05)

**03. Informal Disposition -- Arbitration -- Mediation.** Unless otherwise prohibited by other provisions of law, informal disposition may be made of any complaint by negotiation, stipulation, agreed settlement, and consent order. The parties may agree to enter into binding arbitration or mediation. Informal settlement of matters is to be encouraged. (4-6-05)

**016. -- 999. (RESERVED)**

## 24.39.33 – RULES GOVERNING MANUFACTURED/MOBILE HOME INDUSTRY LICENSING

### 000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Title 44, Chapter 21, Idaho Code.

( )

### 001. SCOPE.

These rules apply to persons engaged in the business of manufacturing, selling, or installing manufactured or mobile homes in Idaho. ( )

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

For the purposes of these rules, the following terms will be used, as defined below:

( )

**01. Alterations to Manufactured Homes.** The replacement, addition, and modification, or removal of any equipment or installation after sale by a manufacturer to a retailer but prior to sale by a retailer 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. ( )

**02. Board.** The Factory Built Structures Advisory Board. ( )

**03. Bond.** The performance bond required by Section 44-2103, Idaho Code. ( )

**04. Branch Office.** An enclosed structure accessible and open to the public, at which the business of the manufactured/mobile home retailer is conducted simultaneously with and physically separated from his principal place of business. There must be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign must provide the business name of the retailer. ( )

**05. Business.** Occupation, profession, or trade. ( )

**06. Deceptive Practice.** Intentionally publishing or circulating any advertising concerning mobile or manufactured homes which: ( )

**a.** Is misleading or inaccurate in any material respect; ( )

**b.** Misrepresents any of the products or services sold or provided by a manufacturer, manufactured/mobile home retailer, or installation company. ( )

**07. Installer.** A person who owns a business which installs manufactured/mobile homes at the sites where they are to be occupied by the consumer. The term does not include the purchaser of a manufactured/mobile home. A retailer who does install manufactured/mobile homes is an installer. The term also does not include concrete contractors or their employees. ( )

**08. Installation.** The term includes “setup” and is the complete operation of fixing in place a manufactured/mobile home for occupancy. ( )

**09. Manufactured Home.** 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 must 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. ( )

**10. Manufactured Home Retailer.** Except as otherwise provided in these rules: ( )

**a.** Any person engaged in the business of selling or exchanging new and used units; or ( )

**b.** Any person or who buys, sells, lists, or exchanges three (3) or more new and used units in any one (1) calendar year. ( )

**11. Manufacturer.** Any person engaged in the business of manufacturing manufactured homes that are offered for sale, lease, or exchange in the state of Idaho. ( )

**12. Mobile Home.** A factory-assembled structure or structures generally constructed prior to June 15, 1976, the date of enactment of the National Manufactured Housing Construction and Safety Standards Act (HUD Code), 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. ( )

**13. Person.** A natural person, corporation, partnership, trust, society, club, association, or other organization. ( )

**14. Principal Place of Business.** The primary physical location at which the business of a manufactured home retailer is lawfully conducted. Each of the following requirements must be met to qualify as the principal place of business: ( )

**a.** The business of the manufactured or mobile home retailer is lawfully conducted here; ( )

**b.** The office or offices of the retailer is or are located here; ( )

**c.** The public may contact the retailer here; ( )

**d.** The offices are accessible and open to the public; and ( )

**e.** The greatest portion of the retailer's business is conducted here. The books and other records of a retailer must be kept and maintained at the retailer's principal place of business and be open to inspection during normal business hours by any authorized agent of the Division. Moreover, there must be displayed on the exterior a sign permanently affixed to the land or building with letters providing the business name of the retailer clearly visible to the major avenue of traffic. ( )

**15. Transit Damage.** Application to manufactured home means that damage encountered en route from the place of manufacture to the retailer 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.

**16. Used Manufactured Home or Mobile Home.** A manufactured home or mobile home, respectively, which has been: ( )

**a.** Sold, rented, or leased and occupied prior to or after the sale, rental, or lease; or ( )

b. Registered with or been the subject of a certificate of title issued by the Idaho Department of Transportation or the appropriate authority of any state, the District of Columbia, or foreign state or country. ( )

**011. (RESERVED)**

**012. LICENSE REQUIRED.**

It is unlawful to engage in business as a manufacturer, manufactured/mobile home retailer, or installer without being duly licensed by the Division pursuant to Title 44, Chapter 21, Idaho Code, and these rules. No issued licenses are transferable. ( )

**01. Minimum Age Requirement.** No license will be issued to a person under eighteen (18) years of age at the time of license application. ( )

**02. Designated License Holder.** Any applicant for a license under these rules who is not a natural person must designate a natural person to be license holder and represent the corporation, partnership, trust, society, club, association, or other organization for all licensing purposes under these rules including, but not limited to, testing and education. ( )

a. The authorization to act as designated license holder must be in writing, signed by the applicant and the person designated, and filed with the Division along with the application. ( )

b. Any person designated under Subsection 012.02 of these rules represents one (1) applicant only, and must immediately notify the Division in writing if his working relationship with the applicant has been terminated. The license will be issued in the name of the designated license holder with the name of the organization he represents also noted on the license. The license holder is considered by the Division to be the licensee, even if the license holder is the designated representative of an organization. ( )

c. The applicant and the person designated under Subsection 012.02 of these rules agree by acceptance of the designation that the designated person acts as agent of the applicant for all purposes under Title 44, Chapters 21 and 22, Idaho Code, and all rules promulgated thereunder. ( )

**03. Proof of License.** Proof of the existence of any license issued pursuant to these rules is carried upon the person of any installation at all times during the performance of the installation work. Moreover, any license issued to a manufactured/mobile home retailer must be posted in a conspicuous place on the business premises of the employer for whom the holder of the license is licensed. The license of a manufacturing facility or branch office must also be posted in a conspicuous place at the location licensed. ( )

**04. Real Estate Brokers.** Licensed real estate brokers or real estate salesmen representing licensed real estate brokers are not required to obtain a license under these rules to sell or lease a used unit that is currently carried on the tax rolls as personal property and that otherwise falls within the exemption contained in Section 44-2102(2), Idaho Code. ( )

**05. License for Manufacturers.** To engage in business in the state of Idaho each manufacturer must be licensed by the Division. ( )

**06. License for Branch Office of Manufactured/Mobile Home Retailer.** ( )

a. The Division requires as a condition of licensing and bonding any information it deems necessary for each location where a manufactured/mobile home retailer maintains a branch office. The mere listing of manufactured/mobile homes for sale does not constitute a branch office, but the use of a mobile home park or a state sales office by a licensee for the sale or offering for sale of manufactured/mobile homes does constitute the maintenance of a branch office. A branch office manager may not manage more than one (1) branch office. ( )

b. To open a branch office, a retailer must: obtain a license from the Division to operate the branch office.

**07. License to Engage in Business as Manufactured/Mobile Home Retailer, Manufacturer, or Installer; Application; Bond; Issuance, Expiration, and Renewal.** ( )

- a. Applicants for a manufacturer's, retailers, or installer's license must furnish: ( )
  - i. Any proof the Division may deem necessary that the applicant is a manufacturer, retailer, or installer; ( )
  - ii. Any proof the Division may require that the applicant has a principal place of business; ( )
  - iii. In the case of a retailer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise retailer for the make concerned; ( )
  - iv. The fee and proof of bond fixed by rule; and ( )
  - v. Proof of passing the examination required by these rules, as applicable. ( )
- b. Within thirty (30) days after receipt of a completed application, the Division will issue or deny the license. ( )
- c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. ( )

**013. PROOF OF EDUCATION REQUIRED.**

**01. Satisfactory Proof for Initial Application Submission.** An application for a license as a manufactured/mobile home installer must include proof satisfactory to the Division that the applicant has completed the following number of hours of initial education in order to be approved: ( )

- a. Installers and retailers who are installers: eight (8) hours. ( )
- b. The course of initial education must be approved by the Division and must include information relating to the provisions of these rules, Title 44, Chapter 21 , Idaho Code, and the National Manufactured Housing Construction and Safety Standards Act of 1974. ( )

**02. Satisfactory Proof for License Renewal.** The Division will not renew any installer license, or retailer license of any retailer who is also an installer, issued pursuant to Title 44, Chapter 21, Idaho Code, or these rules until the licensee has submitted proof satisfactory to the Division that he has, during the three (3) years immediately preceding the renewal of the license, completed at least eight (8) hours of continuing education. ( )

**03. Continuing Education Course.** The course of continuing education must be approved by the Division and include information relating to the following: ( )

- a. Manufactured housing or mobile home parks; ( )
- b. The construction, including components and accessories, rebuilding, servicing, installation, or sale of manufactured/mobile homes; ( )
- c. Legislative issues concerning manufactured/mobile home housing and manufactured/mobile home parks, including pending and recently enacted state or federal legislation; and ( )
- d. These rules, Title 44, Chapters 21 or 22, Idaho Code, and the Manufactured Housing Safety Standards Act of 1974. ( )

**014. EXAMINATION OF APPLICANT FOR LICENSE.**

**01. Required Examinations.** The Division requires a written examination of each applicant for an initial license as a manufactured/mobile home retailer or installer. To avoid the requirement of an examination and be considered a renewal, any licensee must renew his license within six (6) months of its expiration date. ( )

**02. Approval of Examination and Grade.** Examinations for all classifications under these rules must be approved by the Division and the Board. No license will be issued unless the applicant receives a final grade of seventy percent (70%) or higher. ( )

**015. DISCIPLINARY ACTION AGAINST LICENSEES.**

The Division may deny, suspend, refuse to renew, or revoke any license issued under Title 44, Chapter 21, Idaho Code, or these rules or reissue the license subject to reasonable conditions upon any of the following grounds: ( )

**01. Violation of Rules and Statutes.** For any willful or repeated violation of these rules, IDAPA 24.39.34, "Rules Governing Manufactured or Mobile Home Installations," or Title 44, Chapters 21 or 22, Idaho Code. ( )

**02. Failure to Have Principal Place of Business.** With regards only to a manufactured/mobile home retailer, failure of the applicant or licensee to have a principal place of business. ( )

**03. False Information.** Material misstatement in the application or otherwise furnishing false information to the Division. ( )

**04. Disclosing Contents of Examination.** Obtaining or disclosing the contents of an examination given by the Division. ( )

**05. Deceptive Practice.** The intentional publication, circulation, or display of any advertising which constitutes a deceptive practice as that term is defined in Subsection 010.05 of these rules. ( )

**06. Failure to Provide Business Name.** Failure to include in any advertising the name of the licensed retailer or installer. ( )

**07. Encouraging Falsification.** Intentionally inducing an applicant or licensee to falsify an application. ( )

**08. Poor Workmanship.** Performing workmanship which is grossly incompetent or repeatedly below the standards adopted by Title 44, Chapters 21 and 22, these rules, IDAPA 24.39.34, "Rules Governing Manufactured or Mobile Home Installations," the National Manufactured Housing Construction and Safety Standards Act of 1974, or the latest Idaho adopted editions of the International Residential Code, the National Electrical Code, the Idaho State Plumbing Code, and the International Mechanical Code. ( )

**09. Installation Supervisor Required.** Failure to have an employee personally supervise any installation of a manufactured/mobile home. ( )

**10. Failure to Honor Warranties.** Failure to honor any warranty or other guarantee given by a licensee for construction, workmanship, or material as a condition of securing a contract, or of selling, leasing, reconstructing, improving, repairing, or installing any manufactured/mobile home. ( )

**11. Revocation or Denial of License.** Revocation or denial of a license issued pursuant to these rules or an equivalent license by any other state or U.S. territory. ( )

**12. Failure to Respond to Notice.** Failure to respond to a notice served by the Division. ( )

**13. Failure to Permit Access to Documentary Materials.** Failure or refusing to permit access by the Division to relevant documentary materials after being requested to do so by the Division. ( )

**14. Conviction of Misdemeanor.** Conviction of a misdemeanor for violation of any of the provisions of Title 44, Chapters 21 or 22, Idaho Code. ( )

**15. Conviction of Felony.** Conviction or withheld judgment for a felony in this state, any U.S. territory, or country. ( )

**16. Dealing with Stolen Manufactured or Mobile Homes.** To knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured or mobile home. ( )

**17. Violation of Permit or Inspection Requirements.** To knowingly violate any permit or inspection requirements of any city or county of this state. ( )

**016. PROCEDURES FOR LICENSING SUSPENSION, REVOCATION OR NONRENEWAL.**

Any proceeding to suspend, revoke, or not renew any license will be conducted as a contested case in accordance with the provisions of Title 67, Chapter 52, Idaho Code, and the "Idaho Rules of Administrative Procedure of the Attorney General," IDAPA 04.11.01.000, et seq. ( )

**017. APPLICATION FOR NEW LICENSE.**

Any person whose license has been revoked may not apply for a new license until the expiration of one (1) year from the date of such revocation. ( )

**018. FEES.**

**01. Fees for Issuance and Renewal of License.** The following fees for the issuance and renewal of a license will be charged: ( )

- a. Retailer license: four hundred forty dollars (\$440). ( )
- b. Manufacturer license: four hundred forty dollars (\$440); ( )
- c. Installer license: two hundred twenty dollars (\$220); ( )

**02. Performance Bonding Requirements.** Application for licensing will be accepted when accompanied by the following performance bond: ( )

- a. Manufacturer: twenty thousand dollar (\$20,000) bond; ( )
- b. Retailer: forty thousand dollar (\$40,000) bond; ( )
- c. Installer: five thousand dollar (\$5,000) bond. ( )

**03. Money or Securities Deposit in Lieu of Performance Bond.** A money or securities deposit will be accepted by the Division in lieu of the performance bonding requirement as set forth at Title 44, Chapter 21, Idaho Code, and Subsection 018.02 of these rules, under the following circumstances: ( )

- a. Any such money or securities deposit is in a principal sum equal to the face amount of the performance bond required for the applicable licensing category; ( )
- b. Any such money deposit is deposited in a time certificate of deposit that provides on its face that the principal amount of such certificate of deposit is payable to the Division upon presentment and surrender of the instrument; ( )
- c. Any such time certificate of deposit has a maturity date of one (1) year from the effective date of licensure and has an automatic renewal provision for subsequent years; ( )



d. Any such time certificate of deposit must be provided to the Division at the time of application for licensure and be retained by the Division during the effective period of licensure unless otherwise expended by the Division to insure completion of the licensee's performance; ( )

e. Any such time certificate of deposit will be returned to an unsuccessful applicant for licensure; ( )

f. The principal amount of any such time certificate of deposit, to the extent not otherwise expended to insure completion of the licensee's performance, will be returned to the depositor by the Division on or before ninety (90) days subsequent to the occurrence of any of the following events: voluntary surrender or return of a license; expiration of a license; lapse of a license; or revocation or suspension of a license; and ( )

g. Any interest income earned by reason of the principal amount of the time certificate of deposit is the property of the licensee. ( )

**019. CIVIL PENALTIES.**

The following acts subject the violator to penalties based on the following schedule: ( )

**01. Industry Licensing.** Except as provided for by Section 44-2106, Idaho Code, any person who engages in the business of a manufacturer, retailer, or installer, as defined in Section 44-2101A, Idaho Code, without being duly licensed by the Division is subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. ( )

**02. Deceptive Practice.** In accordance with Section 44-2106(2), Idaho Code, any retailer or installer, who intentionally publishes or circulates any advertising that is misleading or inaccurate in any material respect or that misrepresents any of the products or service sold or provided by a manufacturer, retailer or installer is subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. ( )

**03. Dealing with Stolen Manufactured or Mobile Homes.** In accordance with Section 44-2106(2), Idaho Code, any person who knowingly purchases, sells, or otherwise acquires or disposes of a stolen manufactured or mobile home is subject to a civil penalty of not more than one thousand dollars (\$1,000). ( )

**04. Failure to Maintain a Principal Place of Business.** In accordance with Section 44-2106(2), Idaho Code, any person who is a retailer duly licensed by the Division and who fails to maintain a principal place of business within Idaho, is subject to a civil penalty of not more than five hundred dollars (\$500) for the first offense and a civil penalty of not more than one thousand dollars (\$1,000) for each offense thereafter. ( )

**05. Violation of Rules and Statutes.** Any person who knowingly violates any of the provisions of these rules, IDAPA 24.39.34, "Rules Governing Manufactured or Mobile Home Installations," or the provisions of Title 44, Chapters 21 or 22, Idaho Code, is subject to a civil penalty of five hundred dollars (\$500) for the first offense and one thousand dollars (\$1,000) for each offense thereafter. ( )

**06. Gross Violation.** In case of continued, repeated, or gross violations of these rules or IDAPA 24.39.34, "Rules Governing Manufactured or Mobile Home Installations," a license revocation may be initiated for licensed individuals under Title 44, Chapter 21, Idaho Code. Non-licensed individuals are subject to prosecution by the appropriate jurisdiction under Idaho law. ( )

**020. MANUFACTURED HOME BUYER'S INFORMATION AND DISCLOSURE FORM.**

The Manufactured Home Buyer's Information and Disclosure Form must be presented by manufactured home retailers to each purchaser of a new manufactured home, and must be executed by the retailer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home. ( )

**021. Manufactured Homes Construction and Safety Standards.**

Effective June 15, 1976, the latest published edition of the National 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 Manufactured Home Procedural and Enforcement Regulations.

**022. Fees.**

**01.** 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. ( )

**02.** Other Inspections. For all inspections other than routine whether they be in-plant or in the field: 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. ( )

**024. -- 999. (RESERVED)**

**24.39.34 – RULES GOVERNING MANUFACTURED OR MOBILE HOME INSTALLATIONS**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Title 44, Chapter 22, Idaho Code.

( )

**001. SCOPE.**

These rules apply to the installation of manufactured or mobile homes in Idaho.

( )

**002. -- 003. (RESERVED)**

**004. ADOPTION AND INCORPORATION BY REFERENCE.**

The Idaho Manufactured Home Installation Standard (January 1, 2018 edition), is hereby adopted and incorporated by reference into these rules.

( )

**005. APPLICATION -- COMPLIANCE.**

**01. Application -- State Preemption.** Cities and counties may not adopt or enforce more or less stringent standards, except as permitted by Section 67-6509(a), Idaho Code, as it pertains to the siting of manufactured homes in residential areas.

( )

**02. Compliance -- Disciplinary Action Against Licensees.** Failure to comply with these standards constitutes grounds for discipline as provided in Title 44, Chapter 22, Idaho Code.

( )

**006. -- 011. (RESERVED)**

**012. USE OF MANUFACTURERS' INSTALLATION INSTRUCTIONS.**

In any instance in which there is a conflict between the DAPIA installation instructions and the Idaho Manufactured Home Installation Standards, the DAPIA installation instructions supersede and serve as the controlling authority.

( )

**013. INSTALLATION PERMITS AND INSPECTIONS REQUIRED.**

Installation permits must be obtained from the Division for installations in areas where there is no approved local program, or from a city or county that has by ordinance adopted building codes pursuant to Section 39-4116, Idaho Code, and whose installation program has been approved by the Division. All installations must be inspected and approved by the authority having jurisdiction before the manufactured home is occupied.

( )

**014. INSTALLATION PERMIT FEES.**

A city or county whose installation inspection program has been approved by the Division establishes their own fee schedule for installation permits within their jurisdiction. Permits obtained from the Division are in accordance with the following schedule:

( )

**01. Single Section Unit.** The permit fee is one hundred fifty dollars (\$150).

( )

**02. Double Section Unit.** The permit fee is two hundred dollars (\$200).

( )

**03. More Than Two Sections.** The permit fee for a home consisting of more than two (2) sections is two hundred fifty dollars (\$250).

( )

**04. Trade Permits.** Trade permits are administered separately from installation permits, and fees for such are separate from the fees identified in Section 014.

( )

**015. INSTALLATION TAGS REQUIRED.**

The owner or installer of a new manufactured home must purchase an installation tag for fifty dollars (\$50) from the

Division prior to commencing the installation of a manufactured home in Idaho. Such tag is required regardless of which jurisdiction has authority to perform the installation inspection. ( )

**016. APPROVAL OF LOCAL MANUFACTURED HOME INSTALLATION INSPECTION PROGRAMS.**

**01. Division Approval.** A city or county that has by ordinance adopted a building code pursuant to Section 39-4116, Idaho Code, is eligible to participate in the inspection of manufactured and mobile homes. Such local installation inspection program must be approved by the Division to provide inspection services if the following minimum criteria is met: ( )

**a.** Inspections are conducted by the city or county employing inspectors holding a valid certification as residential building inspector from the International Code Council; ( )

**b.** Inspectors have attended annual training sessions provided or approved by the Division and received a certificate evidencing successful completion thereof; and ( )

**02. Voluntary Withdrawal.** A city or county may voluntarily withdraw from participation in the program to inspect manufactured homes upon providing to the Administrator of the Division thirty (30) days written notice of its intention to do so. ( )

**017. MINIMUM TRAINING REQUIREMENTS FOR INSPECTORS.**

**01. Annual Training or Instruction.** All installation inspectors employed by the Division or a city or county must complete eight (8) hours of training or instruction approved by the Division every three (3) years. ( )

**018. QUALITY ASSURANCE.**

**01. Inspected Installations.** Any inspected installation is subject to quality assurance reviews by Division of Occupational and Professional Licenses. Findings made by the Division pursuant to such reviews will be forwarded to the inspection authority having jurisdiction. ( )

**02. Inspectors and Programs.** All inspectors and approved programs, including the Division, are subject to review. ( )

**019. MINIMUM SCOPE OF INSTALLATION INSPECTION.**

**01. Scope.** At a minimum, the inspection of the installation of a manufactured home by an installer includes the inspection record document that verifies that the installer has visually inspected the installation of the mobile or manufactured home. ( )

**02. Inspection Minimum Requirements.** At a minimum, the inspection of the installation of a manufactured home must include the following by an inspector: ( )

**a.** Verification that site location is suitable for home design and construction, and inspection of site-specific conditions, including preparation and grading for drainage; ( )

**b.** Inspection of the foundation construction; ( )

**c.** Verification that installed anchorage meets minimum requirements; and ( )

**d.** Verification of completed inspection record document from the installer. ( )

**020. -- 999. (RESERVED)**

# FACTORY BUILT STRUCTURES ADVISORY BOARD

## Agenda Item No. 02

## Rescind Existing Temporary Rules

**PRESENTER:** Lisa Stover, Building Program Supervisor

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**OBJECTIVE:** Rescind all current temporary rules for modular buildings – IDAPA 24.39.31, 24.39.32, 24.39.33, and 24.39.34.

---

**ACTION:** Vote to rescind current temporary rules for modular buildings.

---

**BACKGROUND:** Administrative rule chapters presented to the 2021 legislature have not taken effect based on the actions of the legislature; the Senate adjourned *sine die* on May 12th and the House recessed subject to the call of the Speaker, no later than December 31st. Therefore, all current temporary rules, including existing fee rules, will expire upon *sine die* which could be as late as December 31st and all existing non-fee rules will expire on June 30th due to legislative inaction. Due to the circumstances, executive administrative action is needed to ensure existing rules remain in effect.

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## **PROCEDURAL HISTORY:**

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**ATTACHMENTS:** No Documentation

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# FACTORY BUILT STRUCTURES ADVISORY BOARD

## Agenda Item No. 03

## Adopt Temporary Omnibus Rules

**PRESENTER:** Lisa Stover, Building Program Supervisor

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**OBJECTIVE:** Approve temporary omnibus rules for modular buildings – IDAPA 24.39.31, 24.39.32, 24.39.33, and 24.39.34.

---

**ACTION:** Vote to approve the adoption of temporary omnibus rules for modular buildings.

---

**BACKGROUND:** Administrative rule chapters presented to the 2021 legislature have not taken effect based on the actions of the legislature; the Senate adjourned *sine die* on May 12th and the House recessed subject to the call of the Speaker, no later than December 31st. Therefore, all current temporary rules, including existing fee rules, will expire upon *sine die* which could be as late as December 31st and all existing non-fee rules will expire on June 30th due to legislative inaction. Due to the circumstances, executive administrative action is needed to ensure existing rules remain in effect.

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### **PROCEDURAL HISTORY:**

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**ATTACHMENTS:** No Documentation

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