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**IDAPA 07
TITLE 03
CHAPTER 11**

07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME INDUSTRY LICENSING

000. LEGAL AUTHORITY.

In accordance with Section 44-2102, Idaho Code, the administrator of the Idaho Division of Building Safety is authorized to promulgate rules necessary to implement the provisions of Title 44, Chapters 21 and 22, Idaho Code. (3-24-05)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing," Division of Building Safety. (3-24-05)

02. Scope. These rules apply to persons engaged in the business of manufacturing, selling, installing or servicing manufactured or mobile homes for purposes of human habitation (living and sleeping) in the state of Idaho. (3-24-05)

002. WRITTEN INTERPRETATIONS.

The Division may from time to time provide legal opinions regarding these rules. To the extent not privileged, these documents will be made available for inspection at the Division's main office, 1090 E. Watertower St., Meridian, Idaho 83642. (3-24-05)

003. ADMINISTRATIVE APPEALS.

Procedures for administrative relief of the provisions outlined herein shall be pursuant to Title 67, Chapter 52, Idaho Code, and the "Idaho Rules of Administrative Procedure of the Attorney General," IDAPA 04.11.01.000, et seq. (5-25-94)

004. DEFINITIONS.

For the purposes of these rules, the following terms will be used, as defined below: (5-25-94)

01. Administrator. The administrator of the Division of Building Safety of the state of Idaho. (3-24-05)

02. Board. The Manufactured Home Advisory Board. The composition and duties of the Board are set forth at Section 44-2104, Idaho Code. (5-25-94)

03. Bond. The performance bond required by Section 44-2103, Idaho Code. (5-25-94)

04. Branch Office. An enclosed structure accessible and open to the public, at which the business of the manufactured/mobile home dealer is conducted simultaneously with and physically separated from his principal place of business. There shall 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 shall provide the business name of the dealer. (3-24-05)

05. Business. Occupation, profession, or trade. (5-25-94)

06. Deceptive Practice. Intentionally publishing or circulating any advertising concerning mobile or manufactured homes which: (5-25-94)

a. Is misleading or inaccurate in any material particular; (5-25-94)

b. Misrepresents any of the products or services sold or provided by a manufacturer, manufactured/mobile home dealer, salesman, or service/installation company. (3-24-05)

07. Division. The Division of Building Safety for the state of Idaho. (5-25-94)

08. Installer. A person who owns a business which installs a manufactured/mobile home at the site where it is to be used for occupancy. The term does not include the purchaser of a manufactured/mobile home or a manufactured/mobile home dealer who does not install manufactured/mobile homes. A dealer who does install manufactured/mobile homes is an installer. The term also does not include concrete contractors or their employees. (3-24-05)

09. Installation. The term includes “setup” and is the complete operation of fixing in place a manufactured/mobile home for occupancy. (5-25-94)

10. Manufactured Home. A structure constructed according to HUD manufactured home construction and safety standards, transportable in one (1) or more sections, which: (3-24-05)

a. In the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length; or (5-25-94)

b. When erected on site, is three hundred twenty (320) or more square feet in size; and (5-25-94)

c. 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 (5-25-94)

d. Includes the plumbing, heating, air conditioning, and electrical systems contained therein; (5-25-94)

e. Except that such term shall include any structure which meets all the requirements of this definition 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. (5-25-94)

11. Manufactured Home Dealer. Except as otherwise provided in these rules: (3-24-05)

a. Any person engaged in the business of selling or exchanging new and used units; or (5-25-94)

b. Any person or who buys, sells, lists, or exchanges three (3) or more new and used units in any one calendar year. (5-25-94)

12. Manufactured/Mobile Home Salesman. Except as otherwise provided in these rules, any person employed by a manufactured/mobile home dealer for a salary, commission, or compensation of any kind to sell, list, purchase, or exchange or to negotiate for the sale, listing, purchase, or exchange of units. (3-24-05)

13. Manufactured/Mobile Home Service Company. Any person who owns or is the responsible managing employee of a business which has grossed more than two thousand five hundred dollars (\$2,500) in any one (1) year from the service of manufactured or mobile homes. The term does not include a manufactured/mobile home dealer or owner. The term also does not include licensed electrical or plumbing contractors, carpet and vinyl installers, painting or concrete contractors, tape and texture installers, cabinet installers, public utilities, or the employees of any of the occupations listed in this sentence. Finally, the term does not include manufactured/mobile home installers. (5-25-94)

14. Manufacturer. A manufacturing facility which has been certified by the U.S. Department of Housing and Urban Development (HUD) to construct prefabricated manufactured homes in accordance with the Manufactured Housing Construction Safety Standards Act of 1974. (5-25-94)

15. Mobile Home. A structure similar to a manufactured home, but built to a mobile home code prior to June 15, 1976, the date of enactment of the Federal Manufactured Housing and Safety Standards Act (HUD Code). (5-25-94)

16. Person. A natural person, corporation, partnership, trust, society, club, association, or other organization. (5-25-94)

17. Principal Place of Business. An enclosed structure accessible and open to the public, at which each of the following requirements are met: (5-25-94)

a. The business of the manufactured/mobile home dealer is lawfully conducted; (3-24-05)

b. The office or offices of the dealer is or are located; (3-24-05)

c. The public may contact the dealer, or salesman; (3-24-05)

d. The books and other records of the business of the dealer shall be kept and maintained; and (3-24-05)

e. The greatest portion of the dealer's business is conducted. The books and records of a dealer must be kept and maintained at the dealer's principal place of business and be open to inspection during normal business hours by any authorized agent of the Division. Moreover, there shall 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 shall provide the business name of the dealer. (3-24-05)

18. Responsible Managing Employee. The person designated by the employer to supervise other employees, either personally or through others. (5-25-94)

19. Service. Service includes, but is not limited to, the installation or repair of awnings, roofing, skirting, siding, remodeling, material alterations, attached carports or decks, on or in manufactured/mobile homes. (5-25-94)

20. Unit. A mobile or manufactured home. (5-25-94)

21. Used Manufactured Home or Mobile Home. A manufactured home or mobile home, respectively, which has been: (5-25-94)

a. Sold, rented, or leased and occupied prior to or after the sale, rental, or lease; or (5-25-94)

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. (5-25-94)

005. -- 011. (RESERVED).

012. LICENSE REQUIRED.

It shall be unlawful to engage in business as a manufacturer, manufactured/mobile home dealer, manufactured/mobile home salesman, responsible managing employee, or manufactured/mobile home service company/installer without being duly licensed by the Division pursuant to Title 44, Chapter 21, Idaho Code, and these rules. No issued licenses are transferable. (3-24-05)

01. Minimum Age Requirement. No license will be issued to a person under eighteen (18) years of age at the time of license application. (5-25-94)

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. (3-24-05)

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. (5-25-94)

b. Any person designated under Subsection 012.02 of these rules shall represent one (1) applicant

only, and shall 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 shall be considered by the Division to be the licensee, even if the license holder is the designated representative of an organization. (5-25-94)

c. The applicant and the person designated under Subsection 012.02 of these rules agree by acceptance of the designation that the designated person shall act as agent of the applicant for all purposes under Title 44, Chapters 21 and 22, Idaho Code, and all rules promulgated thereunder. (5-25-94)

03. Proof of License. Proof of the existence of any license issued pursuant to these rules shall be carried upon the person of the responsible managing employee or supervisor of any installation or any person who is personally involved with the service of any manufactured/mobile home at all times during the performance of the service or installation work. Such proof shall be furnished upon demand of any person. Moreover, any license issued to a manufactured/mobile home dealer, responsible managing employee, or salesman 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 shall also be posted in a conspicuous place at the location licensed. (3-24-05)

04. Real Estate Brokers. Licensed real estate brokers or real estate salesmen representing licensed real estate brokers shall not be required to obtain a license under these rules in order 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. (3-24-05)

05. License for Manufacturers. In order to engage in business in the state of Idaho or to be entitled to any other license or permit required by these rules each manufacturer must be licensed by the Division. (3-24-05)

06. License for Branch Office of Manufactured/Mobile Home Dealer. (3-24-05)

a. The Division shall require as a condition of licensing and bonding any information it deems necessary for each location where a manufactured/mobile home dealer 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. (3-24-05)

b. To open a branch office, a dealer must: obtain a license from the Division to operate the branch office; and provide for direct supervision of the branch office, either by himself or by employing a branch office manager. (3-24-05)

c. If the branch office is closed, the dealer shall immediately deliver the license to the Division. (3-24-05)

07. License to Engage in Business as Manufactured/Mobile Home Dealer, Manufacturer, Service Company, or Installer; Application; Bond; Issuance, Expiration, and Renewal. (3-24-05)

a. Applications for a manufacturer's, dealer's, service company or installer's license must be filed upon forms supplied by the Division, and the applicant shall furnish: (3-24-05)

i. Any proof the Division may deem necessary that the applicant is a manufacturer, dealer, service company or installer; (3-24-05)

ii. Any proof the Division may require that the applicant has a principal place of business; (5-25-94)

iii. Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought; (5-25-94)

iv. In the case of a dealer 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 dealer

- for the make concerned; (5-25-94)
- v. A reasonable fee and proof of bond fixed by rule; and (5-25-94)
 - vi. In the case of a dealer, service company, or installer, proof of passing the examination required by these rules. (3-24-05)
- b.** Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license. (5-25-94)
- 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. (5-25-94)
- d.** If any installer or service company's working relationship with his employer is terminated, the employer shall immediately deliver the license of the terminated installer or service company to the Division. (5-25-94)
- 08. License for Manufactured/Mobile Home Salesman.** (5-25-94)
- a.** A person shall not act as a salesman in this state for a person who sells or leases any manufactured/mobile home subject to the provisions of Title 44, Chapters 21 or 22, Idaho Code, without having first received a license from the Division. Before issuing such a license, the Division shall require: (1) an application, signed by the applicant and verified by his employer, stating that he desires to act as a salesman and providing his residential address and the name and address of his employer; (2) a statement as to whether any previous application of the applicant has been denied or license revoked; (3) payment of the license fee established by rule; and (4) any other relevant information the Division deems necessary. (5-25-94)
- b.** Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license. (5-25-94)
- 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. (5-25-94)
- d.** A person licensed pursuant to Subsection 012.08 of these rules shall not engage in sales activity other than for the account of, or for and on behalf of, a single employer who is a licensed dealer. (3-24-05)
- e.** If a salesman ceases to be employed by a licensed dealer, his license to act as a salesman is automatically suspended and his right to act in that capacity immediately ceases. He shall not engage in such activity until reemployed by a licensed dealer. If the salesman's working relationship with his employer is terminated, the employer shall immediately deliver his license to the Division. (3-24-05)
- 09. License for Responsible Managing Employee.** (5-25-94)
- a.** A person shall not act as a responsible managing employee for an installer without first having been issued a license by the Division. Before issuing such a license the Division shall require: (5-25-94)
- i. An application, signed by the applicant and verified by his employer, stating that he desires to act as a responsible managing employee and providing his residential address and the name and address of his employer; (5-25-94)
 - ii. A statement as to whether any previous application of the applicant has been denied or license revoked; (5-25-94)
 - iii. Payment of the license fee established by rule; and (5-25-94)
 - iv. Any other relevant information the Division deems necessary. (5-25-94)

b. Within thirty (30) days after receipt of a completed application, the Division shall issue or deny the license. (5-25-94)

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. (5-25-94)

d. A person licensed pursuant to Subsection 012.09 of these rules shall not engage in such activity other than for the account of, or for and on behalf of, a single employer who is a licensed service company or installer. (5-25-94)

e. If a responsible managing employee ceases to be employed by an installer, his license to act as a responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases. He shall not engage in such activity until reemployed by a licensed installer. (5-25-94)

f. If the responsible managing employee's working relationship with his employer is terminated, the employer shall immediately deliver his license to the Division. (5-25-94)

013. THE DIVISION'S MAILING ADDRESS.

Any correspondence or notices required by these rules or Title 44, Chapters 21 or 22, Idaho Code, shall be addressed to the Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642. (3-24-05)

014. (RESERVED).

015. EXAMINATION OF APPLICANT FOR LICENSE.

01. Required Examinations. Effective January 1, 1995, the Division shall require a written examination of each applicant for a license, other than a license being renewed, as a manufactured/mobile home dealer, service company or installer. The examination shall include, but may not be limited to, the following subjects: Title 44, Chapters 21 and 22, Idaho Code; these rules and IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations"; and the Manufactured Housing Construction Safety Standards Act of 1974. To avoid the requirement of an examination and be considered a renewal, any licensee must renew his license within sixty (60) days of its expiration date. (3-24-05)

02. Approval of Examination and Grade. Examinations for all classifications under these rules shall be approved by the Division and the Board. No license shall be issued unless the applicant receives a final grade of seventy percent (70%) or higher. (5-25-94)

03. Retesting. If an applicant for a license fails the written examination offered by the Division twice, he must wait at least thirty (30) days before retesting. (5-25-94)

016. 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: (3-24-05)

01. Violation of Rules. For any willful or repeated violation of these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," or Title 44, Chapters 21 or 22, Idaho Code; (3-24-05)

02. Failure to Have Principal Place of Business. With regards only to a manufactured/mobile home dealer, failure of the applicant or licensee to have a principal place of business; (3-24-05)

03. Revocation of License. The revocation of the license of the employer of an installer, responsible managing employee, salesman, or service company is grounds for the revocation of the license of the installer, responsible managing employee, salesman, or service company employee. (5-25-94)

04. False Information. Material misstatement in the application or otherwise furnishing false information to the Division; (5-25-94)

- 05. Proof of Employment.** Failure of a salesman or applicant for licensing as a salesman to establish by proof satisfactory to the Division that he is employed by a licensed dealer; (3-24-05)
- 06. Disclosing Contents of Examination.** Obtaining or disclosing the contents of an examination given by the Division; (5-25-94)
- 07. Deceptive Practice.** The intentional publication, circulation, or display of any advertising which constitutes a deceptive practice as that term is defined in Subsection 004.06 of these rules; (3-24-05)
- 08. Failure to Provide Business Name.** Failure to include in any advertising the name of the licensed dealer, service company, or installer, or the name under which he is doing business; (5-25-94)
- 09. Encouraging Falsification.** Intentionally inducing an applicant or licensee to falsify his credit application; (5-25-94)
- 10. Poor Workmanship.** Performing workmanship which is grossly incompetent or repeatedly below the standards adopted by Title 44, Chapters 21 and 22, these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," the Federal Manufactured Housing and Safety Standards Act of 1974, or the latest editions of the International Building Code, the National Electrical Code, the Uniform Plumbing Code, and the International Mechanical Code, then in effect; (3-24-05)
- 11. Installation Supervisor Required.** Failure to have a licensed responsible managing employee personally supervise any installation of a manufactured/mobile home; (5-25-94)
- 12. Failure of Organizations to License its Employees.** Failure of an organization to have its employees maintain any license as required by these rules; (3-24-05)
- 13. Failure to Honor Warranties.** Failure to honor any warranty or other guarantee given by an applicant or 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, or accessory structure; (5-25-94)
- 14. 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 country; (3-24-05)
- 15. Failure to Maintain Any Required License.** Failure of the licensee to maintain any other license required by any city or county of this state; (5-25-94)
- 16. Failure to Respond to Notice.** Failure to respond to a notice served by the Division as provided by law within the time specified in the notice; (5-25-94)
- 17. 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; (5-25-94)
- 18. Conviction of Misdemeanor.** Conviction of a misdemeanor for violation of any of the provisions of Title 44, Chapters 21 or 22, Idaho Code; (5-25-94)
- 19. Conviction of Felony.** Conviction or withheld judgment for a felony or a crime of moral turpitude in this state or any other state or country; (5-25-94)
- 20. Dealing with Stolen Manufactured or Mobile Homes.** To knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured or mobile home; or (5-25-94)
- 21. Violation of Permit or Inspection Requirements.** To knowingly violate any permit or inspection requirements of any city or county of this state. (5-25-94)

017. PROCEDURES FOR LICENSING SUSPENSION, REVOCATION OR NONRENEWAL.

Any proceeding to suspend, revoke, or not renew any license shall 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. Any party aggrieved by an order of the administrator suspending, revoking, or not renewing a license shall be entitled to judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. (3-24-05)

018. 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. (5-25-94)

019. FEES.

01. Fees for Issuance and Renewal of License. The following fees for the issuance and renewal of a license will be charged, and no application for licensing pursuant to these rules will be accepted by the Division unless it is accompanied by the appropriate fee: (5-25-94)

a. Manufactured/mobile home dealer's license: four hundred forty dollars (\$440). Dealers who are also installers will not have to pay an installer's license fee in order to hold both licenses. (3-24-05)

b. Manufacturer license: four hundred forty dollars (\$440); (3-24-05)

c. Manufactured/mobile home service company/installer: two hundred twenty dollars (\$220); (3-24-05)

d. Manufactured/mobile home salesman's license: forty-five dollars (\$45). (3-24-05)

e. Branch office/responsible managing employee: forty-five dollars (\$45). (3-24-05)

02. Performance Bonding Requirements. No application for licensing pursuant to these rules shall be accepted unless it is accompanied by evidence of the following performance bond: (3-24-05)

a. Manufacturer: twenty thousand dollar (\$20,000) bond; (5-25-94)

b. Manufactured/mobile home dealer: twenty thousand dollar (\$20,000) bond; (5-25-94)

c. Manufactured/mobile home service company/installer: five thousand dollar (\$5,000) bond. Dealers who are also installers will not be required to post an installer's bond in order to hold both licenses. (5-25-94)

d. Branch office/responsible managing employee. No bond. (5-25-94)

03. Money Deposit in Lieu of Performance Bond. A money deposit shall be accepted by the Division in lieu of the performance bonding requirement as set forth at Title 44, Chapter 21, Idaho Code, and Subsection 019.02 of these rules, under the following circumstances: (7-1-96)

a. Any such money deposit shall be in a principal sum equal to the face amount of the performance bond required for the applicable licensing category; (7-1-96)

b. Any such money deposit shall be deposited in a time certificate of deposit which provides on its face that the principal amount of such certificate of deposit shall be payable to the Division upon presentment and surrender of the instrument; (7-1-96)

c. Any such time certificate of deposit shall have a maturity date of one (1) year from the effective date of licensure and shall have an automatic renewal provision for subsequent years; (7-1-96)

d. Any such time certificate of deposit shall be provided to the Division at the time of application for licensure and shall 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; (7-1-96)

e. Any such time certificate of deposit shall be returned to an unsuccessful applicant for licensure; (7-1-96)

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, shall 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 (7-1-96)

g. Any interest income earned by reason of the principal amount of the time certificate of deposit shall be the property of the licensee. (7-1-96)

020. LICENSING COMPLAINTS.

Persons who wish to submit comments to the Division for its consideration regarding the fitness to hold a license of anyone currently licensed or applying for a license under these rules must do so in writing. To be considered, any such writing must be signed, dated, provide the name of the license holder or applicant, provide the specific details giving rise to the comments, and contain a valid and current address and telephone number for verification purposes. (3-24-05)

021. RETURN OF LICENSE UPON REVOCATION.

In the event a license is revoked by the Division, the former license holder shall immediately return the revoked license to the Division. (5-25-94)

022. -- 029. (RESERVED).

030. MANUFACTURED HOME BUYER'S INFORMATION AND DISCLOSURE FORM.

The Manufactured Home Buyer's Information and Disclosure Form shall be presented by manufactured home dealers to each purchaser of a new manufactured home, and shall be executed by the dealer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home. The form is available at the Division office. (3-30-01)

031. -- 999. (RESERVED).

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