



BUILDING SAFETY &  
FACILITIES DEVELOPMENT

October 12, 2022

Idaho Building Code Board  
Division of Occupational and Professional Licensing (DOPL)  
State of Idaho  
11341 W. Chinden Blvd. Boise,  
ID 83714

RE: Public Comment to Proposed Rule Changes for IDAPA 24.39.30 - Rules of Building Safety

Idaho Building Code Board

The City of Nampa would like to take the opportunity to provide feedback to the proposed changes to IDAPA rules 24.39.30 - Rules of Building Safety.

In reviewing the Division of Occupational Licenses (DOPL) proposed rule changes; the city's initial response is to question the substantial changes being proposed to the energy code given the standard timeline for rule changes and adoption for building codes. The proposed rule changes are a significant change of the rules outside of the code adoption cycle; while there are already adopted code editions in place that were collaboratively agreed upon by industry stakeholders, Building Code Board and Idaho Legislature in 2019 and 2020.

We would like to provide comments on specific sections of the proposed rules as follows:

**24.39.30, 004, 01. – International Building Code (IBC)**

- For the opening sentence, we recommend it be edited from "...including appendices there to pertaining to building accessibility" to instead state "including Appendix E Supplementary Accessibility Requirements" .
- Deleting amended Sections 308.2.4, 308.3.2, and 308.5.4 adds back in specific code language for fire sprinklers in buildings regulated under the International Residential Code (IRC) for low occupancy buildings used for custodial care, medical care and daycare. This conflicts with IRC amendment 02., a., as it is needed to be consistent. Historically, these changes have been adopted to allow these custodial care occupancies in non-sprinklered residential buildings. Additionally, the deletion and subsequent re-addition of code language would leave this provision in conflict with

310.4.1 pertaining to daycare or care facilities where the sprinkler language is deleted. This adds confusion to the code and will be cost prohibitive for some given the large number of small in-home daycares, especially those located in Nampa.

- Under Section 310.4, in the charging statement of this section, it was previously amended to add E occupancy (daycare) in the language "...and not classified as Group R1, R2, R4, E, or I," because a daycare item was added to the list, which aligns with an E occupancy.
- Under Section 602.1.2, it's currently drafted to reference "Paragraph 004.01.h of these rules" twice. We recommend that it be amended to "Paragraph 004.01.i of these rules," which would instead correctly reference the 2021 IBC Mass Timber provisions.

#### **24.39.30, 004, 02. – International Residential Code (IRC)**

- Under Section R314.2.2. Smoke Alarms: This amendment should be removed in its entirety, leaving the existing IRC code language.
- Under Section R315.2.2, Carbon Monoxide Alarms: This amendment should be removed in its entirety, leaving the existing IRC code language.
- Under Section R322.1.10, Flood Resistant Construction: This amendment should be removed in its entirety, leaving the existing IRC code language which is consistent with FEMA regulations developed by the American Society of Civil Engineers.

#### **24.39.30, 004, 03. – International Energy Conservation Code (IECC)**

One of the largest concerns with the proposed rule changes is the intent to delete commercial building sections C403-C408, C502.2.3, C502.2.4, C502.2.6, C503.4, C503.5, and C503.6, related to mechanical, service water heating, electrical power and lighting systems, additional efficiency package options, total building performance, maintenance and system commissioning from the adopted Idaho Energy Conservation Code.

The Division of Occupational and Professional Licenses position that the energy code may not be regulated by the Idaho Building Code Board and must be only evaluated to a standard of life safety is a misinterpretation of the precedence, history, and intent of the original Idaho Building Code Act. While the energy code statute was adopted later into the Idaho Building Code Act, it was enacted with clear authority given to the Idaho Building Code Board "*to promote the health, safety, and welfare of the occupants and users of buildings and structures...*" based on the legislative finding and intent found in Idaho Statute Title 39, Chapter 41, Idaho Building Code Act. The energy code is critically important as an overlay code that integrates building, mechanical, plumbing, and electrical systems.

Negotiated rulemaking has already occurred among industry stakeholders which resulted in agreed upon compromises with the Idaho Building Code Board in 2019 for the adoption of the 2018 editions of building and energy codes. We respectfully question why these agreements are not being honored and why such significant changes are being put forward outside of the regular code adoption cycle? We

recommend that this exercise occur at the time of future adoption of the next editions of codes, especially where there are necessary changes to specific code requirements.

Moreover, if the statutes and related processes need to change for each trade board to have oversight of specific parts of the energy code as proposed by DOPL, then the city strongly encourages the Idaho Building Code Board and DOPL facilitate this change at the legislative level before deleting energy code provisions that will result in large inconsistencies in building efficiency, health, safety, and welfare provisions. The result of removing the majority of the energy code provisions will cause confusion for builders and designers, especially those from out-of-state, who are trying to design projects in Idaho, and financial impacts to homeowners and building owners.

Additional feedback on 24.39.30, 004, 03. – International Energy Conservation Code is follows:

- Deleting added Exception number 7 under Section C403.5 disregards an industry proposed amendment for businesses who have special outside air filtration systems, which helps ease provisions from needing an economizer under certain circumstances. The city recommends that this existing amendment remain in place.
- Deleting amended Table C404.5.1 referencing piping volume and maximum pipe lengths disregards an industry proposed amendment. The city recommends that this existing amendment remain in place.
- Deleting amended sections R402.4.1 and R402.4.1.2 removes previously agreed upon approach and language for a building's thermal envelope. Newly amended Section R402.4.1.2 only specifies a visual option for addressing air leakage. It is not possible to determine the actual air tightness measured by air changes per hour for a building's thermal envelope by using visual inspection alone. The proposed amendment needs to also include a testing option with specified parameters to verify the air infiltration rate of the building envelope as it related to the provisions of the mechanical code. An air infiltration rate of 5 air changes per hour or less in a residential occupancy triggers the requirement for mechanical fresh air ventilation based the International Mechanical Code.
- Deleting components of the residential log home provisions disregards the log home industry proposed amendments that have been longstanding. The city recommends that this existing amendment remain in place.
- The city also recommends keeping provisions for hot water pipe insulation and lighting equipment in code, whether amended or not.
- Deleting Sections R403, R404, and R405 related to systems, electrical power and lighting systems and simulated performance alternative. Please reference our earlier comments provided above on the importance of the energy code and its overlay with the other trade codes. We strongly recommend removal of the proposed amendments to delete the plumbing, mechanical, and electrical provisions from the adopted energy code.

In closing, we thank you for this opportunity to provide feedback about the proposed amendments outlined in IDAPA Rules 24.39.30. We encourage the Idaho Building Code Board and IDOPL to retain long-standing and agreed upon building and energy code provisions that are instrumental to the interconnectedness between other trade codes, such as the mechanical, plumbing and electrical codes. The consequences of the rollback of these provisions will create confusion among building code stakeholders and fall short of protecting the health, safety and welfare for building users and occupants as mandated by the Idaho Building Code Act.

Additionally, consumers expect that new homes and buildings are designed and inspected to the same code standards as other states; the proposed reduction in energy code standards in Idaho will result buildings with lower performance than 49 states, Puerto Rico and the U.S. Virgin Islands, all of which have adopted editions of the International Energy Conservation Code. Energy efficiencies as cost-savings measures promote the welfare of Idaho citizens given rising home and utility costs; whereas removing energy code provisions negatively affect our shared constituents and residents financially. VA and FHA financing on new homes and low-rise multifamily housing may also be in jeopardy due to HUD efficiency criteria based on conformance to the International Energy Conservation Code.

For these reasons, we strongly encourage the Idaho Building Code Board make our suggested building code rule changes for the IRC and IBC but keep all existing energy code provisions and rules for the IECC in place and to engage in negotiated rulemaking with stakeholders and building code experts to specifically address necessary targeted changes versus wholesale deletions to the code. This rulemaking effort should include sufficient time for research, discussion and analysis necessary to determine the effects of any proposed amendments.

Sincerely,



Patrick Sullivan, CBO, AIA  
Director of Building Safety & Facilities Development

cc: Debbie Kling – Mayor, City of Nampa  
Nampa City Council  
Cliff Long – Director of Development Services  
Jeff Miranda – Building Official  
Todd Lakey – City Attorney  
Tim Frost, Deputy Administrator - DOPL  
Michael Hyde, BCRC Operations Manager - DOPL