

IDAHO ADMINISTRATIVE BULLETIN

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August 4, 1999

Volume 99-8

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Preface

The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative rulemaking documents in Idaho. The Bulletin publishes the official text notice and full text of such actions.

State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of a rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Legal Notice. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rulemaking activities.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is cited by year and issue number. For example, Bulletin 98-1 refers to the first Bulletin issued in calendar year 1998, Bulletin 99-1 refers to the first Bulletin issued in calendar year 1999, etc. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 1 refers to January; Volume No. 2 refers to February; and so forth. Example: The Bulletin published in January of 1999 is cited as Volume 99-1. The December 1998 Bulletin is cited as Volume 98-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

*The Idaho Administrative Code is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are **not** printed in the Administrative Code and are published only in the Bulletin.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Index of Administrative Rulemaking**, printed in each Bulletin.*

TYPES OF RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

The state of Idaho administrative rulemaking process comprises five distinct activities; Proposed, Negotiated, Temporary, Pending, and Final rulemaking. In the majority of cases, the process begins with proposed rulemaking and ends with final rulemaking. The following is a brief explanation of each type of administrative rule.

NEGOTIATED RULE

Negotiated rulemaking is a process in which all interested parties and the agency seek a consensus on the content of the rule. Agencies are encouraged to proceed through this informal rulemaking whenever it is feasible to do so. Publication of the text in the Administrative Bulletin by the agency is optional. This process should lead the rulemaking to the temporary and/or proposed rule stage.

PROPOSED RULE

A proposed rulemaking is an action by an agency in which the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a notice of proposed rulemaking in the Bulletin. The notice of proposed rulemaking must include:

- a) the specific statutory authority for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation; and*
- g) the deadline for public (written) comments on the proposed rule.*

As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule docket. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.

TEMPORARY RULE

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) the protection of the public health, safety, or welfare; or*
- b) compliance with deadlines in amendments to governing law or federal programs; or*
- c) conferring a benefit.*

If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule.

A temporary rule expires at the conclusion of the next succeeding regular session of the legislature unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.

In cases where the text of the temporary rule is the same as that of the proposed rule, the rulemaking can be done concurrently as a temporary/proposed rule. State law requires that the text of a proposed or temporary rule be published in the Administrative Bulletin. Combining the rulemaking allows for a single publication of the text.

An agency may rescind a temporary rule that has been adopted and is in effect if the rule is being replaced by a new temporary rule or has been published concurrently with a proposed rulemaking that is being vacated.

PENDING RULE

A pending rule is a rule that has been adopted by an agency under the regular rulemaking process and

remains subject to legislative review before it becomes a final, enforceable rule.

When a pending rule is published in the Bulletin, the agency is required to include certain information in the Notice of Pending Rule. This includes:

- a) the reasons for adopting the rule;
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;
- c) the date the pending rule will become final and effective; and
- d) an identification of any portion of the rule imposing or increasing a fee or charge.

Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the Notice of Pending Rule is published.

FINAL RULE

A final rule is a rule that has been adopted by an agency under the regular rulemaking process and is in effect.

No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that the agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution will be adopted rejecting, amending, or modifying the rule or any part thereof. A Notice of Final Rule must be published in the Idaho Administrative Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended, or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule which is final and effective may be applied retroactively, as provided in the rule.

AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN

The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls and Twin Falls, the Lewiston City Library, East Bonner County Library, Eastern Idaho Technical College Library, Ricks College Library, and Northwest Nazarene College Library.

SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone

(208) 332-1820.

The Administrative Bulletin is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

The Administrative Code, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.

Individual Rule Chapters and *Individual Rulemaking Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

Internet Access - The Administrative Code and Administrative Bulletin are available on the Internet at the following address:

<http://www.state.id.us/> - from Idaho Home Page select the Administrative Rules link.

EDITOR'S NOTE: All rules are subject to frequent change. Users should reference all current issues of the Administrative Bulletin for negotiated, temporary, proposed, pending, and final changes to all rules, or call the Office of the Administrative Rules at (208) 332-1820.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the *Idaho Administrative Bulletin* are organized by a numbering system. Each state agency has a two-digit identification code number known as the "IDAPA" number. (The "IDAPA" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "TITLE" number is assigned. There are "CHAPTER" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

IDAPA 38.05.01.060.02.c.ii.

"IDAPA" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

"IDAPA 38." refers to the Idaho Department of Administration.

"05." refers to Title 05 which is the Department of Administration's Division of Purchasing.

"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing".

"060." refers to Major Section 060, "Content of the Invitation to Bid".

"02." refers to Subsection 060.02.

"c." refers to Subsection 060.02.c.

"ii." refers to Subsection 060.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER". The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-9901). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

"DOCKET NO. 38-0501-9901"

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), "Rules of the Division of Purchasing" (Chapter 01).

"9901" denotes the year and sequential order of the docket submitted and published during the year; in this case the first rulemaking action of the chapter published in calendar year 1999.

Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

"(BREAK IN CONTINUITY OF SECTIONS)"

INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection that is part of the same rule, a typical internal citation may appear as follows:

"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."

It may also be cited to include the IDAPA, Title, and Chapter number also, as follows:

"...in accordance with IDAPA 38.05.01.201."

"38" denotes the IDAPA number of the agency.

"05" denotes the TITLE number of the agency rule.

"01" denotes the Chapter number of the agency rule.

"201" references the main Section number of the rule that is being cited.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, 'Rules Governing Capitol Mall Parking.'"

BULLETIN PUBLICATION SCHEDULE FOR 1999

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date
99-1	January, 1999	November 18, 1998	January 6, 1999
99-2	February, 1999	December 23, 1998	February 3, 1999
99-3	March, 1999	January 20, 1999	March 3, 1999
99-4	April, 1999	February 24, 1999	April 7, 1999
99-5	May, 1999	March 24, 1999	May 5, 1999
99-6	June, 1999	April 21, 1999	June 2, 1999
99-7	July, 1999	May 26, 1999	July 7, 1999
99-8	August, 1999	June 23, 1999	August 4, 1999
99-9	September, 1999	July 21, 1999	September 1, 1999
99-10	October, 1999	August 25, 1999	October 6, 1999
99-11	November, 1999	September 22, 1999	November 3, 1999
99-12	December, 1999	October 20, 1999	December 1, 1999

BULLETIN PUBLICATION SCHEDULE FOR 2000

Volume No.	Monthly Issue of Bulletin	Closing Date for Agency Filing	Publication Date
00-1	January, 2000	November 17, 1999	January 5, 2000
00-2	February, 2000	December 22, 1999	February 2, 2000
00-3	March, 2000	January 19, 2000	March 1, 2000
00-4	April, 2000	February 23, 2000	April 5, 2000
00-5	May, 2000	March 22, 2000	May 3, 2000
00-6	June, 2000	April 19, 2000	June 7, 2000
00-7	July, 2000	May 24, 2000	July 5, 2000
00-8	August, 2000	June 21, 2000	August 2, 2000
00-9	September, 2000	July 19, 2000	September 6, 2000
00-10	October, 2000	August 22, 2000	October 4, 2000
00-11	November, 2000	September 20, 2000	November 1, 2000
00-12	December, 2000	October 25, 2000	December 6, 2000

ALPHABETICAL INDEX OF AGENCY IDAPA AND ADMINISTRATIVE CODE VOLUME NUMBERS

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46	Veterinary Medical Examiners, Board of - Administrative Code Volume 8
55	Vocational Education, Division of - Administrative Code Volume 8
47	Vocational Rehabilitation, Division of - Administrative Code Volume 8
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42	Wheat Commission, Idaho - Administrative Code Volume 8

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.01.07 - RULES GOVERNING CONTINUING EDUCATION REQUIREMENTS
DOCKET NO. 07-0107-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 20, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67 5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1006, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 18, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking.

This rule change clarifies the continuing education requirements for license renewal of journeymen and master electricians.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection of the public health, safety or welfare. This rule change provides clarification of the continuing education requirements for license renewal of journeymen and master electricians.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change simply clarifies the existing rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Gary Malmen at (208) 334-2183.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and delivered on or before August 25, 1999.

DATED this 21st day of June 1999.

Gary Malmen
Bureau Chief Electrical Bureau
Division of Building Safety
277 N. 6th
P. O. Box 83720
Boise, ID 83720
Telephone: (208) 334-2183
Facsimile: (208) 334-4891

THE FOLLOWING IS TEXT OF DOCKET NO. 07-0107-9901

011. CONTINUING EDUCATION REQUIREMENTS.

Journeyman and Master ~~Journeyman~~ Electricians must complete at least sixteen (16) hours of continuing education instruction in every three (3) year period between updates of the National Electrical Code. ~~Such instruction will consist of eight (8) hours of code update covering changes included in the latest edition of the National Electrical Code instructions approved by the Electrical Bureau each code change year, and eight (8) additional hours of other approved electrical industry related instruction covering subjects other than code update in such three (3) year period. The Electrical Board will establish criteria for approval of instruction and instructors, and courses and instructors will be approved by the Bureau. Proof of completion of these continuing education requirements must be submitted to the Bureau prior to or with the application for license renewal by any such licensee in order to renew a journeyman or master electrician license for the code change year. Failure to submit the required proof will constitute grounds for license suspension, which suspension shall continue until such proof has been submitted. These continuing education requirements shall not apply to specialty electricians.~~ (8-2-90)(5-20-99)T

IDAPA 07 - DIVISION OF BUILDING SAFETY
07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME LICENSING
DOCKET NO. 07-0311-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rule-making. The action is authorized pursuant to Section 44-2102(2) Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 18, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rule:

The rule will provide a financial information disclosure form which must be acknowledged and signed by prospective home buyers at the time the initial purchase order is signed for the sale of a new manufactured home.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted as the rule is non-controversial and will serve to benefit consumers who purchase new manufactured homes in Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this proposed rule, contact Jack Rayne, Building Programs Manager, Division of Building Safety, 277 N. 6th Street, Suite 100, P.O. Box 83720, Boise, Idaho, 83720-0060, (208) 334-3896.

Anyone may submit written comments regarding this rule. All written comments and data concerning the proposed rules must be directed to the undersigned and must be postmarked or delivered on or before August 25, 1999.

DATED this 23rd day of June, 1999.

Connie J Mumm
Division of Building Safety
277 N. 6th, Suite 100
P.O. Box 83720
Boise, ID 83720-0048
(208) 334-3950/fax (208) 334-2683

THE FOLLOWING IS TEXT OF DOCKET NO. 07-0311-9901

022. -- ~~99029~~. (RESERVED).

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

01. Required Disclosure. The new 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. ()

02. New Manufactured Home Buyer's Information And Disclosure Form. ()

IDAHO DIVISION OF BUILDING SAFETY
MANUFACTURED HOUSING SECTION
277 N 6TH ST. SUITE 100
BOISE, ID 83720-6001

NEW MANUFACTURED HOME BUYER'S
INFORMATION AND DISCLOSURE FORM

FINANCING TERMS AND CONDITIONS:

Several different financing options are available to buyers of manufactured homes. These may be through the dealer, local banks, savings and loan associations, credit unions, finance companies or other financial institutions. Those financing options and financing costs are dependent upon whether the home is financed with real estate or is considered personal property. The type of financing that the buyer secures will dictate the financing costs that the buyer will incur. Depending on which financing institution is chosen, and the type of financing needed, these are some of the financing costs that may be associated with the purchase of a manufactured home. This list is not inclusive and other financing costs may be required.

- | | |
|-------------------------------------|--------------------------------------|
| <u>* Loan Origination Fee</u> | <u>* Hazard Insurance</u> |
| <u>* Appraisal Fee</u> | <u>* Flood Insurance if required</u> |
| <u>* Mortgage Insurance</u> | <u>* Inspection Fees</u> |
| <u>* Discount Points</u> | <u>* Interest for Credit</u> |
| <u>* Title Insurance</u> | <u>* Credit Report</u> |
| <u>* Records and/or Filing Fees</u> | <u>* Escrow's for Taxes and</u> |
| <u>* Construction Loan Costs</u> | <u>Insurance</u> |

The financial institution that will be extending the financing for the buyer's manufactured home will provide the buyer with an estimate of financing costs for loans with real estate.

ADDITIONAL COSTS:

There may be additional costs associated with the purchase of a manufactured home that the buyer will want to review with the dealer, which could include the following:

- | | |
|-----------------------------------|--|
| <u>* Land Purchase</u> | <u>* Well and Septic Installation</u> |
| <u>* Realtor Fees/Commissions</u> | <u>* Garage, Carport, Decks, Etc.</u> |
| <u>* Site Rent or Lease</u> | <u>* Landscaping, Driveway, or Roads</u> |
| <u>* Land or Site Development</u> | <u>* Permits and Impact Fees</u> |
| <u>* Foundation Expense</u> | <u>* Electrical, Gas and Plumbing</u> |
| <u>* Set-up Costs</u> | <u>Connections</u> |

There may be other expenses and fees associated with the purchase of a manufactured home. Buyers should consult with their manufactured housing dealer and local city or county building departments for information about their specific situation, and refer to appropriate consumer guide publications.

BUYER'S STATEMENT: I acknowledge that I have read and understand all aspects of the above disclosure prior to purchase.

Dealer's Name _____ Idaho Dealer License No. _____
Dealer's Address _____
Buyer's Name(s) (Please Print) _____
Buyer's Signature(s) _____ Date _____

MHDF-2
6/99

Original - Dealer

Pink Copy - New Home Buyer

031. -- 999. (RESERVED).

IDAPA 08 - IDAHO STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

DOCKET NO. 08-0203-9902

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rules is August 4, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Title 33, Chapter 20, Section 33-2002, Idaho Code, and 20 U.S.C. Section 1400-1419 and 34 C.F.R. Part 300.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

September 13, 1999, 3:00 – 5:00 p.m.
West Conference Room of the J.R. Williams Building
700 West State Street, Boise, Idaho 83720

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

State special education rules are in conflict with the recent changes to federal special education laws and regulations. Additions, revisions or deletions to state rules are being proposed for evaluations, eligibility, individualized education programs, parent and student rights, performance goals and indicators, advisory panel appointment procedures, liability for assistive technology devices, and participation of students with disabilities in statewide testing.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with deadlines in amendments to governing law or federal programs.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because it was not feasible due to required timelines for complying with federal law and regulations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Nolene Weaver at 208-332-6917.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 15, 1999.

DATED this 23rd day of June, 1999.

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THE FOLLOWING IS TEXT OF DOCKET NO. 08-0203-9902

**109. SPECIAL EDUCATION REGULATIONS (SECTION 33-2001 THROUGH 2008, IDAHO CODE)--
GENERAL PROVISIONS.**

- 01. Definitions.** The following definitions apply only to Section 109 of these rules. (8-4-99)T
- a. Adult student. A student who is eligible for special education, is eighteen (18) years of age or older and to whom special education rights have transferred. (8-4-99)T
- b. Department. State Department of Education. (8-4-99)T
- c. Education agency. Each school district and other public agency that is responsible for providing special education and related services to students with disabilities, including the Department of Juvenile Corrections and the Idaho School for the Deaf and Blind. (8-4-99)T
- d. Expedited due process hearing. An administrative hearing to resolve disputes concerning discipline for which shortened time lines are in effect in accordance with the Individuals with Disabilities Education Act. (8-4-99)T
- e. Governing special education requirements. Sections 33-201, 33-2001 through 2002, 33-2004 through 2005, and 33-2010, Idaho Code; Section 109 of these rules; the Individuals with Disabilities Education Act (IDEA), Parts A and B, (20 U.S.C., Sections 1400-1419); IDEA Regulations (34 C.F.R. Part 300); policies and procedures the State Department of Education is required to adopt to meet the eligibility requirements of 20 U.S.C. Section 1412; and special education case law that sets precedence in Idaho. (8-4-99)T
- f. Regular due process hearing. An administrative hearing that is conducted to resolve disputes on any matter related to identification, evaluation, placement, or the provision of a free appropriate public education except for disputes concerning discipline for which an expedited hearing may be requested under the Individuals with Disabilities Education Act. (8-4-99)T
- g. Special education. Specially designed instruction as defined by the Individuals with Disabilities Education Act or speech-language pathology services to meet the unique needs of a special education student. (8-4-99)T
- 012. Legal Compliance.** Each public agency, including the State Department of Education, local school districts, and any other political subdivision of the State that is responsible for providing education for students with disabilities, will comply with all provisions of Chapter 20, Title 33, Idaho Code, the Idaho State Board of Education Rules for Public Schools, the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, Idaho's approved State Plan and any amendments and implementing regulations of such laws or plan. The State Department of Education and education agencies shall comply with all governing special education requirements. (7-1-99)T(8-4-99)T
- a. Local Education Agencies (LEAs). Local Education Agencies (LEAs) will develop appropriate plans and ensure that an array of individualized services is available at all times to meet the needs of children with disabilities at the preschool, kindergarten, elementary and secondary levels. These services to children with disabilities within a single school district, a multi district, a cooperative unit, or through a contractual arrangement with an outside agency will be enumerated in the LEA application for federal funds. The Board of Trustees or other comparable governing agency will body of each education agency shall adopt local policies and procedures for providing special education services and obtain approval from the State Department of Education for the same. Approval will be based on current requirements of applicable laws, including the Individuals with Disabilities Education Act, Idaho Code, federal and state regulations implementing those laws in Idaho's approved state plan and any corrective actions required resulting from federal or state reviews. Department approval shall be based on current governing special education requirements. Each education agency shall revise its policies and procedures as necessary to conform with changes in governing special education requirements. (7-1-99)T(8-4-99)T

b. The State Department of Education ~~will~~ shall provide ~~LEAs education agencies~~ education agencies with a sample set of policies and procedures that is consistent with ~~relevant state and federal laws and regulations governing special education requirements.~~ The State Department of Education ~~will~~ shall monitor all ~~education agencies public~~ education agencies public and private agencies who provide special education and/or related services to students with disabilities for compliance with ~~state and federal laws, rules and regulations governing special education requirements and local adopted policies and procedures.~~ (4-1-97)(8-4-99)T

c. Each education agency shall ensure that charter schools and alternative schools located in its jurisdiction have nondiscriminatory enrollment practices. Each education agency shall ensure the provision of special education and related services to eligible students enrolled in charter and alternative schools in accordance with governing special education requirements. (8-4-99)T

d. The child find services plan and expenditure requirements of the Individuals with Disabilities Education Act that apply to students who are unilaterally enrolled in private schools by their parents shall also apply to home school students. (8-4-99)T

ee. Each ~~public education~~ agency contracting with a private school or facility ~~will~~ shall ensure that the private school or facility ~~meets the standards set forth in this section is approved by the State Department of Education to provide special education services.~~ The State Department of Education will determine if private schools and facilities meet state standards for an approved special education program. The Department may approve a private school or facility to provide special education services upon application to the Department if it: (8-4-99)T

i. Is an accredited school or a licensed rehabilitation center; and (8-4-99)T

ii. Meets minimum health, fire and safety standards; and (8-4-99)T

iii. Is nonsectarian; and (8-4-99)T

iv. Provides special education services consistent with governing special education requirements. (8-4-99)T

v. Any ~~agency private school or facility~~ agency aggrieved by the Department's ~~of Education's~~ final decision may appeal that decision to the State Board of Education. (4-1-97)(8-4-99)T

ff. ~~LEAs must~~ Education agencies shall employ special education and related services professional personnel using certification standards approved by the State Board of Education or licensing standards adopted by the Bureau of Occupational Licensing standards for occupational and physical therapists. Education agencies shall employ individuals who meet the highest entry-level standard that applies to a specific discipline unless there is a shortage of fully qualified candidates for a specific position. If there is a shortage of fully qualified candidates, the education agency shall hire the most qualified individual available who is making satisfactory progress toward meeting the highest entry-level standard within three (3) years. (4-1-97)(8-4-99)T

e. ~~School districts will provide extended school year services (beyond the regular school year) for children with disabilities who qualify for such services.~~ (4-1-97)

g. Education agencies may employ paraprofessional personnel to assist in the provision of special education and related services to students with disabilities if they meet standards established by the State Department of Education. (8-4-99)T

fh. ~~LEAs must~~ Education agencies shall collect and report data as necessary to meet state and federal requirements concerning special education services, staff or students. Education agencies shall develop, implement and revise district improvement plans as necessary to improve results as measured by data on goals and indicators for the performance of special education students that are established by the State Department of Education in accordance with the Individuals with Disabilities Education Act. (4-1-97)(8-4-99)T

i. Education agencies shall establish a team process to problem solve and plan general education

interventions to ensure that referrals to special education are appropriate. (8-4-99)T

~~**02. Eligibility For Special Education.** LEAs must implement appropriate procedures to locate, evaluate and determine eligibility of students with potential disabilities. At the preschool age level this will include public awareness and screening activities. For school age students, LEAs will make known and accessible to all concerned persons a specified method of referral for special education and related services. (4-1-97)~~

~~a. LEAs will establish Multi-Disciplinary Teams (MDTs) to assist in determining eligibility for special education. An MDT is a district or building committee composed of regular educators and special educators. The MDT may also include the student's parents. The MDT reviews all student referrals to determine whether to conduct a multi-disciplinary evaluation to determine eligibility for special education. If an evaluation is to be conducted, the MDT determines the nature and extent of the evaluation in accordance with Individuals with Disabilities Education Act requirements, minimum evaluation procedures and eligibility criteria established by the State Department of Education, and the student's needs. The MDT also conducts or arranges for the evaluation, as appropriate. Such evaluation procedures will be provided at no expense to the parents. (4-1-97)~~

~~b. MDT evaluators must prepare individual evaluation reports or a single composite report containing complete data. A single composite report must be developed for students with learning disabilities. The IEP team will make the final determination of eligibility. (4-1-97)~~

~~**e03. Eligibility For Special Education.** The State Department of Education will shall provide minimum state eligibility criteria for special education services for categorical and noncategorical eligibility consistent with the Individuals with Disabilities Education Act. Education agencies shall consider eligibility under all disability categories set forth in the Idaho Special Education Manual with the exception of developmental delay, which is an optional category. If an education agency elects to use the developmental delay category, it shall consider developmental delay for students ages three (3) through nine (9) using the eligibility criteria adopted by the Department and set forth in the Idaho Special Education Manual. Noncategorical eligibility procedures and criteria may be used only by schools and education agencies that have applied for and been granted a noncategorical eligibility waiver. (4-1-97)(8-4-99)T~~

~~**03. IEP Team Responsibilities.** Each school district or multi-district will establish and utilize IEP Teams to coordinate activities and make decisions regarding eligibility, to develop individual education programs and to determine the placement of students with disabilities. The IEP Team membership is specified by the Individuals with Disabilities Education Act and would typically include the child's teacher, parents, an administrator and others as appropriate. (4-1-97)~~

~~a. The IEP Team will review the comprehensive evaluation information completed for each child and determine if each child is eligible for special education or related services, using minimum state guidelines for eligibility. All information, including documentation of eligibility or ineligibility, becomes part of the student's permanent file. (4-1-97)~~

~~b. The IEP Team will develop Individual Education Programs (IEPs) for each student who is eligible for special education prior to the initiation of special education or related services. The IEP will include components required by federal law and the LEAs policies and procedures. The IEP Team will determine the least restrictive educational environment in which the student's IEP can be appropriately implemented. (4-1-97)~~

~~**e04. Individualized Education Programs.** Each education agency shall develop an individualized education program (IEP) for each student who is eligible for special education. The IEP will shall be implemented as soon as possible after it is developed. The total timeline from the date of receipt of written parental consent for pre-placement evaluation an initial assessment to the date of IEP implementation will shall not exceed sixty (60) calendar days, excluding periods when regular school is not in session for five (5) or more consecutive school days, unless all parties agree to an extension. Extensions may be granted only when all parties have agreed in writing to the extension. A new IEP shall be developed at least annually, on or before the date the previous IEP was developed. (4-1-97)(8-4-99)T~~

~~a. IEP team meetings shall be convened upon reasonable request of any IEP team member at times other than the annual review. If the education agency refuses to convene an IEP team meeting requested by a parent or~~

adult student, the agency shall provide written notice of the refusal. (8-4-99)T

b. Education agencies shall document the attendance of all participants at each IEP team meeting. Any participant who does not agree with an IEP team decision regarding a student's educational program may place a minority report in that student's file. A minority report shall not prevent implementation of an IEP team decision. (8-4-99)T

c. The IEP team shall determine the student's placement in the least restrictive environment. An education agency's reassignment of a student to another classroom or building in the agency shall not be considered a change in placement as long as the IEP goals, services and degree of interaction with non-disabled peers remains unchanged. (8-4-99)T

d. At the discretion of the public education agency, an Individualized Family Service Plan (IFSP) may be used in place of an IEP provided if: (8-4-99)T

i. The child is aged three (3) through five (3-5); and (8-4-99)T

ii. The child's parents are provided with a detailed explanation of the differences between an IFSP and an IEP, and (8-4-99)T

iii. The child's parents agree provide written consent to the use of the IFSP; and (8-4-99)T

iv. The IFSP is developed in accordance with Part HC policies and procedures. (8-4-99)T

v. Nothing in this part requires public education agencies to develop IFSPs rather than IEPs for three (3) through five (3-5) year olds nor to implement more than the educational components of the IFSP. (4-1-97)(8-4-99)T

e. When a student who has been determined eligible for special education, or related services (as indicated on by a current IEP), transfers from one (1) Idaho school district education agency to another, the student will is entitled to continue to be included in receive special education services. The receiving district education agency may accept and implement the existing IEP developed by the sending district or may convene an IEP team meeting to develop a new IEP. If a new IEP cannot be developed within five (5) school days, or if the district education agency wishes to re-evaluate the child, an interim (short-term) IEP must shall be implemented pending the development of the standard IEP. If the student transfers to an Idaho school district from another state, the district must determine if the student meets Idaho's state eligibility criteria for special education. (4-1-97)(8-4-99)T

f. The IEP Team decision will be based upon team agreement and signed by team members. The signature of the parent or guardian is required prior to the implementation of the initial IEP. When any other member of the IEP Team is not in agreement, that member has the right to place a minority report in the student's file. If a student who is eligible for special education in another state transfers to an Idaho education agency, the Idaho education agency shall request a copy of the student's most recent eligibility documentation and IEP within two (2) school days. Within five (5) school days of receipt of the eligibility documentation and IEP, the Idaho education agency shall determine if it will adopt the existing eligibility documentation and IEP. If the education agency disagrees with the existing eligibility documentation, or if the documentation is not available within a reasonable time period, consent for an initial assessment shall be sought. While the assessment and evaluation is in process, the education agency may implement an interim IEP if the parent or adult student agrees. If the parent or adult student does not agree to an interim IEP, the student shall be placed in general education. (4-1-97)(8-4-99)T

g. A review of each special education student's program and placement will be conducted at least annually by the IEP Team. The IEP Team will review the student's progress, will determine if additional evaluations are necessary, and whether the student is still eligible for special education. Continuing eligibility may be determined by formal or informal assessment, progress towards IEP goals and objectives or other relevant means. Students who are no longer eligible must be formally exited from special education. State funded personnel may continue to monitor the student and consult with general educators. (4-1-97)

h. Any member of an IEP Team may request a team meeting at times other than the annual review for

~~purposes of determining student progress in special education and related services or to consider revisions or amendments to the IEP or placement. IEP Team meetings will be convened on reasonable request of any member.~~ (4-1-97)

i. ~~For a student who continues to be eligible for special education, the IEP Team will develop a new IEP or make revisions as needed. A complete IEP must be written at least annually.~~ (4-1-97)

04. Parent Participation. LEAs must take steps to ensure that one (1) or both parents of each special education student are provided with appropriate information and are afforded the opportunity to participate in making educational decisions regarding their child, consistent with the Individuals with Disabilities Education Act. (4-1-97)

05. Procedural Safeguards. LEAs Education agencies will use appropriate procedural safeguards consistent with the Individuals with Disabilities Education Act, ~~including but not limited to the following methods:~~ (4-1-97)(8-4-99)

a. If a parents or adult student disagrees with an individualized education program change or placement change proposed by the district, ~~they~~ the parent or adult student may file a written objection to all or parts of the proposed change. If ~~parents file a~~ the written objection ~~that~~ is postmarked or hand delivered within ten (10) calendar days of the date ~~they~~ the parent or adult student receives written notice of the proposed change, ~~the proposed change from the district, the changes to which the parents object cannot be implemented. The district and parent may use informal methods such as additional IEP Team meetings or voluntary mediation may be used to resolve the disagreement. If these informal attempts methods fail, the district education agency may request a due process hearing to obtain a hearing officer's decision regarding the proposed change. The written objection cannot be used to prevent the district education agency from placing a student in an interim alternative educational placement setting in accordance with IDEA discipline procedures for discipline of a student for possession of a weapon as defined by the Individuals with Disabilities Education Act.~~ (4-1-97)(8-4-99)T

b. ~~Mediation is a voluntary process and may only be used when both parties to the dispute agree to it. Mediation does not negate the parents' or school district's rights to a due process hearing nor does it interfere with the timelines. The State Department of Education will offer mediation as an alternative dispute resolution mechanism any time a hearing is requested and at other times when appropriate. Schools and parents have the right to request mediation at any time. The State Department of Education will screen all requests for mediation to determine appropriateness. Mediation may be requested by an education agency, parent, or adult student, or offered by the State Department of Education at any time. The Department shall screen all such requests to determine appropriateness. Any time a hearing is requested, the Department shall offer mediation using policies and requirements set forth in the Individuals with Disabilities Education Act regulations. If the State Department of Education appoints a mediator, the Department will reimburse the mediator for an honorarium and travel expenses. All mediation participants shall be required to sign a confidentiality pledge. Attorney fees may not be awarded for a mediation that is conducted prior to a request for a due process hearing.~~ (4-1-97)(8-4-99)T

e. ~~The State Department of Education will resolve formal complaints filed against school districts and other agencies using procedures developed in accordance with Individuals with Disabilities Education Act requirements.~~ (4-1-97)

dc. ~~The State Department of Education shall administer a single-tiered due process hearing system to resolve disputes between education agencies and parents or adult students. When a parent/guardian of the school district initiates a request for a due process hearing is requested, the superintendent, special education director, or other agency administrator will shall inform the agency's board of trustees or other governing body of the request. The school district will education agency shall immediately notify the State Department's of Education's Bureau of Special Education Section of any request for a due process hearing. Within ten (10) calendar days of a written request for a regular hearing, or within five (5) business days of a written request for an expedited hearing, an impartial hearing officer will shall be assigned by the State Department of Education. The State Department of Education will shall maintain a list of trained hearing officers and their qualifications.~~ (4-1-97)(8-4-99)T

ed. ~~The school district education agency that is a party to the hearing will shall be responsible for compensating the hearing officers and paying for the cost of a verbatim transcript of the hearing.~~ (4-1-97)(8-4-99)T

fe. Due process hearings ~~will~~ shall be conducted pursuant to the Idaho Administrative Procedures Act (APA) and the Individuals with Disabilities Education Act (IDEA) requirements. In case of any conflict between the APA and the IDEA, the IDEA ~~will~~ shall supersede the APA. (4-1-97)(8-4-99)T

gf. The hearing officer ~~will~~ shall issue a written decision that includes findings of fact and conclusions of law within forty-five (45) ~~calendar~~ calendar days of the date ~~the hearing was a regular hearing is requested,~~ unless a specific extension of this time line ~~has been is~~ requested by one (1) of the parties and granted by the hearing officer. The hearing officer shall issue a written decision that includes findings of fact and conclusions of law within twenty (20) calendar days of a written request for an expedited hearing, unless a specific extension of this time line has been granted. An extension of the time line shall not exceed an additional twenty-five (25) days, and may be granted only if requested by one (1) of the parties and agreed to by both parties. The decision ~~will~~ shall be sent to the parents, ~~or adult student,~~ the school district superintendent, education agency administrator, ~~and to their respective representatives. A copy of the decision will be sent to,~~ and the State Department of Education. (4-1-97)(8-4-99)T

hg. ~~A decision made by~~ The hearing officer's decision will shall be binding unless either party wishes ~~to~~ appeals the decision by initiating a civil action. The hearing officer's decision shall be implemented not later than fourteen (14) days from the date of issuance unless an appeal is filed by a parent or adult student or the decision specifies a different implementation date. An appeal to a civil court must be filed within fifty-six (56) days from the date of issuance of the final hearing officer's decision. Any party initiating an appeal will be responsible for causing a written transcript to be made and will assume all costs associated with this transcript. (4-1-97)(8-4-99)T

ih. During the hearing the ~~district will~~ education agency shall provide reasonable accommodations as required by federal and state regulations. Disputes concerning reasonable accommodations ~~will be resolved by~~ shall be referred to the Department of Education's Americans with Disabilities Act (ADA) Committee for resolution. (4-1-97)(8-4-99)T

ji. During the pendency of any due process hearing or civil appeal ~~of hearing results by civil action,~~ the child's educational placement ~~will~~ shall be determined by the Individuals with Disabilities Education Act "stay put" requirements. ~~The district's reassignment of a student to another classroom or building in the district will not be construed as a change in placement as long as the IEP goals remain unchanged and the degree of interaction with non-disabled peers remains the same.~~ (4-1-97)(8-4-99)T

kj. A parent or adult student has the right to an ~~independent~~ Educational Evaluation (IEE) at public expense if the parent or adult student disagrees with an evaluation obtained by the ~~school district~~ education agency. ~~Parents are not entitled to have additional evaluations or procedures, beyond those determined necessary by the school district, conducted at public expense under IEE provisions. Whenever an independent educational evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must shall be the same as the criteria which the school district the education agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent or adult student's right to an IEE. If an education agency has cost as one (1) of the criteria the education agency uses when it initiates an evaluation, the education agency may apply that criteria to independent educational evaluations. However, the parent or adult student has the right to demonstrate that unique circumstances justify an IEE that falls outside the education agency's cost criteria, and if so demonstrated, that IEE shall be publicly funded. A due process hearing may be initiated by the school education agency to determine if the evaluation conducted by the school education agency is appropriate. If the final decision of a hearing officer, (or a civil court, of law if the hearing officer's decision is appealed), is that the evaluation that has been conducted by the school education agency is appropriate, the parents or adult student still have has the right to an independent educational evaluation, but not at the education agency's expense. However, they must pay for this evaluation.~~ (4-1-97)(8-4-99)T

l. In order to avoid unreasonable charges for IEEs, a district may establish maximum allowable charges for specific tests. ~~If a district does establish maximum allowable charges for specific tests, the maximum cannot simply be an average of the fees customarily charged in the area by professionals who are qualified to conduct the specific test. Rather, the maximum must be established so that it allows the parents to choose from among the qualified professionals in the area and only eliminates unreasonably excessive fees. The district must allow the parents the opportunity to demonstrate that unique circumstances justify an IEE that does not fall within the district's criteria. If an IEE that falls outside the district's criteria is justified by the child's unique circumstances, that IEE must~~

~~be publicly funded.~~

~~(4-1-97)~~

~~m.k.~~ Student records will be managed in accordance with ~~federal~~ IDEA and Family and Educational Rights and Privacy Act regulations governing security, confidentiality, access, maintenance, destruction, inspection and amendment. ~~(4-1-97)(8-4-99)T~~

06. Assistive Technology Devices. Education agencies may hold a parent liable for the replacement or repair of an assistive technology device that is purchased or otherwise procured by the education agency if it is lost, stolen, or damaged due to negligence or misuse at home or in another setting outside of school time. (8-4-99)T

067. Diplomas And Graduation. School districts ~~will~~ shall use a regular diploma for ~~special education~~ students who are eligible for special education at the completion of their secondary program. The transcript serves as a record of individual accomplishments, achievements, and courses completed. A modified or differentiated diploma or certificate may not be used for ~~special education~~ students who are eligible for special education unless the same diploma or certificate is granted to students without disabilities. If a student is not granted a regular high school diploma or if a regular high school diploma is granted for completing requirements that are not comparable to regular graduation requirements, a student who is eligible for special education is entitled to receive a free appropriate public education through the semester in which the student turns twenty-one (21) years of age or until the student completes requirements that are comparable to regular graduation requirements, whichever comes first. ~~(4-1-97)(8-4-99)T~~

08. Special Education Advisory Panel. The State Superintendent of Public Instruction shall appoint members to serve on the Special Education Advisory Panel. Panel members shall elect annually an individual to serve a one (1) year term as vice-chair followed by a one (1) year term as chair. (8-4-99)T

(BREAK IN CONTINUITY OF SECTIONS)

111. TESTING IN THE PUBLIC SCHOOLS.

01. Philosophy. Acquiring the basic skills is essential to realization of full educational, vocational and personal/social development. Since Idaho schools are responsible for instruction in the basic scholastic skills, the State Board of Education has a vested interest in regularly surveying student skill acquisition as an index of the effectiveness of the educational program. This information can best be secured through objective assessment of student growth. A statewide student testing program consisting of standardized achievement testing and performance appraisal activities in the fundamental basic skills will be conducted annually under the supervision of the State Department of Education. (4-1-97)

02. Purposes. The purpose of testing in the public schools is to provide comparative local, state and national data regarding the achievement of students in essential skill areas; to identify performance trends in student achievement across grade levels tested and over time; to provide supplemental information to local educational agencies that may be useful in evaluating local curriculum and instructional practices, screening students for special program entry/exit, diagnosing individual differences, developing student schedules, making differential assignments within classes and in communicating school progress information to various publics; and to determine State Department of Education technical assistance/consultation priorities. (4-1-97)

03. Content. The statewide testing program will consist of the Iowa Tests of Basic Skills (ITBS), the Tests of Achievement and Proficiency (TAP), the Direct Writing Assessment (DWA) and the Direct Mathematics Assessment (DMA). (4-1-97)

04. Testing Population. All students in Idaho public schools, grades three through eleven (3-11), are required to participate in the standardized portion of the statewide testing program approved by the State Board of Education and funded. In addition, all students in grades four (4), eight (8) and eleven (11) are required to participate in the Direct Writing Assessment and all students in grades four (4) and eight (8) are required to participate in the Direct Mathematics Assessment portions of the statewide testing program. Non-public school students at those same grade levels are encouraged to participate at private school expense. ~~For those exceptional students currently receiving special services, it is recommended that they be enrolled in the regular education program for basic skills~~

~~instruction in reading, language arts, mathematics, science and social studies at least one half (1/2) of the school day or have the endorsement of the IEP Team to participate in the test. No student will be denied the right to participate. All students who are eligible for special education shall participate in the statewide assessment program. Each student's individualized education program team shall determine whether the student shall participate in the regular assessment without accommodations, the regular assessment with allowable accommodations, or whether the student qualifies for and shall participate in the alternate assessment.~~ (4-1-97)(8-4-99)T

05. Scoring And Report Formats. Scores will be provided for each skill area assessed and reported in standard scores, percentile ranks, stanines, and holistic scores (Direct Writing Assessment and Direct Mathematics Assessment). Test results will be presented in a class list report of student scores, building/district summaries, and pressure sensitive labels. Information about the number of students who are eligible for special education who participate in regular and alternate assessments, and their performance results, shall be included in reports to the public if it is statistically sound to do so and would not disclose performance results identifiable to individual students. (4-1-97)(8-4-99)T

06. Testing Schedule. The Iowa Tests of Basic Skills and the Tests of Achievement and Proficiency will be administered in October of each school year. The Direct Writing Assessment and the Direct Mathematics Assessment will be administered in the early spring of each school year during a time period specified by the State Department of Education. (4-1-97)

07. Costs Paid By The State. Costs for the following testing activities will be paid by the state: (4-1-97)

- a. All consumable and non-consumable test materials needed to conduct the prescribed statewide testing program; (4-1-97)
- b. Statewide distribution of all test materials; (4-1-97)
- c. Processing and scoring student response forms, distribution of prescribed reports for the statewide testing program; and (4-1-97)
- d. Implementation and scoring of the Direct Writing Assessment component to the fourth, eighth and eleventh grade batteries and the fourth and eighth grade batteries of the Direct Mathematics Assessment. (4-1-97)

08. Costs Of Additional Services. Costs for any additional sub-test administrations or scoring services not included in the prescribed statewide testing program will be paid by the participating school districts. Cost for replacement or supplemental materials which exceed expectation may also be charged to the district. (4-1-97)

09. Services. Statewide testing should be scheduled so that a minimum of instructional time is invested. Student time spent in testing will not be charged against attendance requirements. (4-1-97)

10. Test Security. Test security is of the utmost importance. It is expected that school districts will employ the same security measures in protecting statewide testing materials from compromise as they use to safeguard other formal assessments (4-1-97)

11. Demographic Information. Demographic information may be required by the State Department of Education to assist in interpreting test results. (4-1-97)

12. Assurances. The State Department of Education will neither advocate nor undertake performance comparisons across Idaho school districts. It is recognized the scholastic achievement can be adversely impacted by individual/environmental differences beyond the control of the school. (4-1-97)

13. Dual Enrollment. For the purpose of non-public school student participation in non-academic public school activities, the Idaho State Board of Education recognized achievement test is Form K of the Iowa Tests of Basic Skills, at the elementary level (grades K-8), and the Tests of Achievement and Proficiency, at the secondary level (grades 9-12). The minimum score on each assessment is the fifth (5th) stanine for the battery total score. (4-1-97)

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT
11.02.01 - RULES OF THE IDAHO STATE BRAND BOARD
DOCKET NO. 11-0201-9801
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency proposed regular rulemaking. The action is authorized pursuant to Section 25-1102, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 18, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodations must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rulemaking:

Animal Damage Control increased their fee from three to four cents per head on all livestock with the additional revenue going to fund existing programs and, hopefully, the dairy and feedlot operators needing assistance in handling their problems.

In March 1998, The Idaho State Brand Board adopted this rule as a temporary rule with an effective date of January 1, 1998. The temporary rule was published in the Idaho Administrative Bulletin, Volume 98-3, March 4, 1998, pages 13 and 14. With this publication the Board is initiating proposed rulemaking.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

Animal Damage Control's fee for this charge was \$.03 per head. It will increase to \$.04 per head. Increased revenue will be used to provide additional assistance to beef feedlots and dairy operations with recurring problems from starlings and magpies.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule confers a benefit and a consensus would not be necessary.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Larry Hayhurst, (208) 884-7070.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 1999.

DATED this 8th day of June, 1999.

Larry Hayhurst
Idaho State Brand Inspector
P.O. Box 1177
Meridian, Idaho 83680-1177
Telephone: (208) 884-7070
Fax: (208) 884-7097

Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

This docket has been previously published as a Temporary Rule.
 The temporary effective date is January 1, 1998.

The original text was published in the Idaho
 Administrative Bulletin, Volume 98-3, March 4, 1998,
 pages 13 and 14.

THE FOLLOWING IS TEXT OF DOCKET NO. 11-0201-9801

034. SCHEDULE OF FEES FOR THE IDAHO STATE BRAND BOARD.

01. Fees. Fees authorized by the State Brand Board and to be collected by the State Brand Inspector are as follows:

Fees Authorized And Collected By The State Brand Board		
Recording of a Brand	\$50.00	
Transfer of a Recorded Brand	\$50.00	
Renewal of a Recorded Brand (Every five years)	\$50.00	
Duplicate Brand Registration Certificate	\$ 1.50	
Ownership and Transportation Certificate	\$25.00	
Duplicate Ownership and Transportation Certificate	\$ 5.00	
Annual Inspection (Expires 12/31) Equine Or Bovine	\$ 5.00	
	CATTLE	HORSES
Brand Inspection (per head)	\$.75	\$ 1.50
Idaho Livestock to Pasture (per head)	\$.38	\$.75
Minimum Auction Fee	\$50.00	\$50.00
Minimum Field Brand Inspection Fee	\$ 3.00	\$ 3.00
Courtesy Brand Inspection	\$.75	\$ 1.50

Fees To Be Collected By The State Brand Inspector For Other State Agencies:	
Idaho Beef Council (per head)	\$1.00
Idaho Horse Board (per head)	\$1.00
Idaho Department of Agriculture:	

Fees To Be Collected By The State Brand Inspector For Other State Agencies:	
Animal Health (per head)	\$.22
Predator Control (per head)	\$.034

~~(3-20-97)~~(____)

02. Due And Payable. Pursuant to Section 25-115260(5), Idaho Code, all brand inspection fees, and all other fees required to be collected by the Brand Inspector are due and payable at the time of inspection, except that livestock owners may make arrangements with a deputy brand inspector to pay for all accumulated brand inspection fees within each seven (7) day period. Failure to comply with this rule will cancel the previously approved schedule and shall make all fees immediately due and payable.

~~(7-1-93)~~(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO
DOCKET NO. 16-0101-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The temporary rules are effective July 2, 1999.

AUTHORITY: In compliance with Sections 67-5226(1) and 67-5221(1), Idaho Code, notice is hereby given that the Board of Health and Welfare (Board) has adopted temporary rules and the Department of Health and Welfare, Division of Environmental Quality (Department) is commencing proposed rulemaking to promulgate final rules. The action is authorized by Sections 39-105 and 39-107, Idaho Code. In addition, 40 CFR Part 60, Subparts Cc and Ce require that states implement federal emission guidelines to control the emissions of hospital/medical/infectious waste incinerators (HMIWIs) and municipal solid waste landfills. 40 CFR Part 60, Subparts Ec and WWW contain standards of performance for new stationary sources of HMIWIs and municipal solid waste landfills, which are not required but are included in this rulemaking. 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257-62 (February 24, 1999) (to be codified at 40 CFR Part 60, Subparts Cc and WWW).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this proposed rulemaking will be held as follows:

Thursday, September 9, 1999, 7:00 p.m.
Division of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208)373-0418.

DESCRIPTIVE SUMMARY: Federal law requires states to implement EPA's emission guidelines to control the emissions of HMIWIs and certain municipal solid waste landfills. If Idaho does not adopt a state plan to implement the guidelines, EPA will promulgate a plan that will control these sources. This rulemaking will provide an enforceable mechanism in the state rules to implement and enforce the emission guidelines through adoption of an approvable state plan for certain municipal solid waste landfills and HMIWIs. It is in the best interest of the state, the public and the regulated community that Idaho adopt its own plan. A state plan will allow Idaho more control in implementing EPA's emissions guidelines. In addition, this rulemaking includes standards of performance for new stationary sources of HMIWIs and municipal solid waste landfills.

As part of this rulemaking, the Department is updating its incorporation by reference of 40 CFR Part 60 by adding amendments published at 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257-62 (February 24, 1999) (to be codified at 40 CFR Part 60).

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Department intends to present the final proposal to the Board of Health and Welfare in November 1999 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2000 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: The Department initiated negotiated rulemaking on the rules dealing with emission guidelines for existing HMIWIs and existing municipal solid waste landfills by publishing a Notice of Negotiated Rulemaking in the Idaho Administrative Bulletin, Volume 99-1, January 6, 1999, pages 181 and 182. No members of the public attended the scheduled meetings. A Notice of Negotiated Rulemaking was not published for the rules dealing with standards of performance for new HMIWIs and new municipal solid waste landfills.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rules are appropriate in that the rules are necessary to protect the public health and to meet federal requirements.

GENERAL INFORMATION: For more information about the Division of Environmental Quality's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact Tim Teater at (208)373-0502 or tteater@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. All written comments must be received by the undersigned on or before September 10, 1999.

Dated this 23rd day of June, 1999.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
psaul@deq.state.id.us

THE FOLLOWING IS TEXT OF DOCKET NO. 16-0101-9901

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability Of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

a. All federal publications: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at (202) 783-3238; and (5-1-94)

b. All documents herein incorporated by reference: (7-1-97)

i. Central Office, Division of Environmental Quality, Department of Health and Welfare, 1410 N. Hilton, Boise, Idaho 83706 at (208) 373-0502. (7-1-97)

ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated By Reference. The following documents are incorporated by reference into these rules: (5-1-94)

a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Appendix W to Part 51--Guideline on Air Quality Models. 40 CFR Parts 51 and 52 revised as of July 1, 1998. (3-19-99)

- b. Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Division of Environmental Quality, Department of Health and Welfare, November 1996. (3-19-99)
- c. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 1997. (3-19-99)
- d. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 1997. (3-19-99)
- e. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 1998. (3-19-99)
- f. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 1998. (3-19-99)
- g. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of July 1, 1998. (3-19-99)
- h. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 1998. (3-19-99)
- i. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 1998. (3-19-99)
- j. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 1998. (3-19-99)
- k. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 1998. (3-19-99)
- l. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 1998. (3-19-99)
- m. Permits, 40 CFR Part 72, revised as of July 1, 1998. (3-19-99)
- n. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 1998. (3-19-99)
- o. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 1998. (3-19-99)
- p. 63 Fed. Reg. 32,743-53 (June 16, 1998) (to be codified at 40 CFR Part 60), amending 40 CFR Part 60, Subparts Cc and WWW. (7-2-99)T
- q. 64 Fed. Reg. 9,257-62 (February 24, 1999) (to be codified at 40 CFR Part 60), amending 40 CFR Part 60, Subparts Cc and WWW. (7-2-99)T

(BREAK IN CONTINUITY OF SECTIONS)

859. --999: ~~(RESERVED)~~ STANDARDS OF PERFORMANCE FOR MUNICIPAL SOLID WASTE LANDFILLS THAT COMMENCED CONSTRUCTION, RECONSTRUCTION OR MODIFICATION ON OR AFTER MAY 30, 1991.

01. Applicability. All owners or operators of each small or large municipal solid waste landfills in any one (1) of the following categories are subject to this Section: (7-2-99)T

- a. Landfills constructed after May 30, 1991; (7-2-99)T
- b. Existing landfills with modifications after May 30, 1991; or (7-2-99)T
- c. Landfills that closed after November 8, 1987 with modifications after May 30, 1991. (7-2-99)T

02. Definitions. Unless specifically provided otherwise immediately below, the definitions for all terms set forth in this Section shall be the definitions set forth in 40 CFR Part 60. The following definitions apply to this Section: (7-2-99)T

a. "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 CFR 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of 40 CFR 258.60. (7-2-99)T

b. "Effective date" means July 2, 1999. (7-2-99)T

c. "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before May 30, 1991 and has accepted waste at any time since November 8, 1987 or has additional design capacity available for future waste deposition. (7-2-99)T

d. "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (7-2-99)T

e. "Modification" means an action that results in an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of May 30, 1991. Modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion. (7-2-99)T

f. "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification). (7-2-99)T

g. "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after May 30, 1991. (7-2-99)T

h. "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (7-2-99)T

03. General Requirements. All owners or operators of landfills subject to this Section must comply with 40 CFR Part 60, Subpart WWW, as amended by 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257-62 (February 24, 1999) and incorporated by reference into these rules at Section 107. Where "Administrator" or "EPA" appears in 40 CFR Part 60, "Department" shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state. (7-2-99)T

04. Permitting Requirements. All owners or operators of landfills subject to this Section must comply with Federal Operating Permit Requirements (Title V) as specified in Sections 300 through 399 of these rules: (7-2-99)T

- a. All owners or operators of existing large landfills with modifications after May 30, 1991 must

submit a complete Federal Operating Permit application by June 1, 2000. (7-2-99)T

b. All owners or operators of existing large landfills with modifications after March 12, 1996 must submit a complete Federal Operating Permit application the earliest of one (1) year from the date EPA approves the Clean Air Act Section 111(d) State Plan for this Section, or within one (1) year of the modification. (7-2-99)T

c. All owners or operators of new large landfills, which includes newly constructed large landfills after March 12, 1996 and existing small landfills that become large landfills after March 12, 1996 must submit a complete Federal Operating Permit application within one (1) year of becoming subject to this requirement. (7-2-99)T

d. All owners or operators of new and modified existing small landfills that are major sources as defined in 40 CFR Part 60, Subpart WWW, as amended by 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257-62 (February 24, 1999), must submit a complete Federal Operating Permit application within one (1) year of becoming a major source. (7-2-99)T

05. Reporting Requirements. All owners or operators of landfills subject to this Section must comply with the following: (7-2-99)T

a. All owners or operators of large landfills must: (7-2-99)T

i. Submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within thirty (30) days of the effective date of this Section; and (7-2-99)T

ii. Submit an annual Nonmethane Organic Compound Report until nonmethane emissions are fifty (50) mg/yr. (7-2-99)T

b. All owners or operators of small landfills of this Section must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within thirty (30) days of the effective date of this Section. (7-2-99)T

c. All owners or operators of landfills subject to this Section after the effective date of this Section must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within thirty (30) days of becoming subject to this Section. (7-2-99)T

860. EMISSION GUIDELINES FOR MUNICIPAL SOLID WASTE LANDFILLS THAT COMMENCED CONSTRUCTION, RECONSTRUCTION OR MODIFICATION BEFORE MAY 30, 1991.

01. Applicability. All owners or operators of any small or large municipal solid waste landfills in the following categories are subject to this Section: (7-2-99)T

a. Landfills that have accepted waste since November 8, 1987; (7-2-99)T

b. Landfills with no modifications after May 30, 1991; or (7-2-99)T

c. Landfills that closed after November 8, 1987 with no modifications after May 30, 1991. (7-2-99)T

02. Definitions. Unless specifically provided otherwise immediately below, the definitions for all terms set forth in this Section shall be the definitions set forth in 40 CFR Part 60. The following definitions apply to this Section: (7-2-99)T

a. "Closed municipal solid waste landfill" (closed landfill) means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 CFR 60.7(a)(4). Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed. A landfill is considered closed after meeting the criteria of 40 CFR 258.60. (7-2-99)T

- b. "Effective date" means July 2, 1999. (7-2-99)T
- c. "Existing municipal solid waste landfill" (existing landfill) means a municipal solid waste landfill that began construction, reconstruction or modification before May 30, 1991 and has accepted waste at any time since November 8, 1987 or has additional design capacity available for future waste deposition. (7-2-99)T
- d. "Large municipal solid waste landfill" (large landfill) means a municipal solid waste landfill with a design capacity greater than or equal to two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (7-2-99)T
- e. "Modification" means an action that results in an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of May 30, 1991. Modification does not occur until the owner or operator commences construction on the horizontal or vertical expansion. (7-2-99)T
- f. "Municipal solid waste landfill" (landfill) means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. A municipal solid waste landfill may also receive other types of RCRA Subtitle D wastes such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of a municipal solid waste landfill may be separated by access roads and may be publicly or privately owned. A municipal solid waste landfill may be a new municipal solid waste landfill, an existing municipal solid waste landfill, or a lateral expansion (modification). (7-2-99)T
- g. "New municipal solid waste landfill" (new landfill) means a municipal solid waste landfill that began construction, reconstruction or modification or began accepting waste on or after May 30, 1991. (7-2-99)T
- h. "Small municipal solid waste landfill" (small landfill) means a municipal solid waste landfill with a design capacity less than two point five (2.5) million megagrams or two point five (2.5) million cubic meters. (7-2-99)T

03. General Requirements. All owners or operators of landfills subject to this Section must comply with, 40 CFR Section 60.30c through 60.36c and 40 CFR Section 60.751 through 60.759 as amended by 63 Fed. Reg. 32,743-53 (June 16, 1998) and 64 Fed. Reg. 9,257-62 (February 24, 1999) and incorporated by reference into these rules at Section 107. Where "Administrator" or "EPA" appears in 40 CFR Part 60, "Department" shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state. (7-2-99)T

04. Permitting Requirements. All owners or operators of landfills subject to this Section must comply with Federal Operating Permit Requirements (Title V) as specified in Sections 300 through 399 of these rules: (7-2-99)T

- a. All owners or operators of existing large landfills must submit a complete Federal Operating Permit application one (1) year after EPA approves the Clean Air Act Section 111(d) State Plan associated with this Section. (7-2-99)T
- b. All owners or operators of existing small landfills that are major sources must submit a complete Federal Operating Permit application within one (1) year of becoming a major source. (7-2-99)T

05. Reporting Requirements. All owners or operators of landfills subject to this Section must comply with the following: (7-2-99)T

- a. All owners or operators of large landfills must: (7-2-99)T
- i. Submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within ninety (90) days of the effective date of this Section and; (7-2-99)T
- ii. Submit an annual Nonmethane Organic Compound Report until nonmethane emissions are fifty

(50) mg/yr.

(7-2-99)T

b. All owners or operators of small landfills must submit an Initial Design Capacity Report and an Initial Nonmethane Organic Compound Report within ninety (90) days of the effective date of this Section. (7-2-99)T

861. STANDARDS OF PERFORMANCE FOR HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS THAT COMMENCED CONSTRUCTION AFTER JUNE 20, 1996, OR FOR WHICH MODIFICATION IS COMMENCED AFTER MARCH 16, 1998.

01. Applicability. All owners or operators of each individual hospital/medical/infectious waste incinerator for which construction is commenced after June 20, 1996 or for which modification is commenced after March 16, 1998 are subject to this Section except as noted in Subsection 861.02. (7-2-99)T

02. Exemptions. (7-2-99)T

a. A combustor is not subject to this Section during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor: (7-2-99)T

i. Notifies the Department of an exemption claim; and (7-2-99)T

ii. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste and/or chemotherapeutic waste is burned. (7-2-99)T

b. Any co-fired combustor is not subject to this Section if the owner or operator of the co-fired combustor: (7-2-99)T

i. Notifies the Department of an exemption claim; (7-2-99)T

ii. Provides an estimate of the relative amounts of hospital waste, medical/infectious waste, and other fuels and wastes to be combusted; and (7-2-99)T

iii. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor. (7-2-99)T

c. Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to this Section; (7-2-99)T

d. Any combustor which meets the applicability requirements under 40 CFR Part 60, Subparts Cb, Ea or Eb (relates to certain municipal waste combustors) is not subject to this Section; (7-2-99)T

e. Any pyrolysis unit is not subject to this Section; (7-2-99)T

f. Cement kilns firing hospital waste and/or medical/infectious waste are not subject to this Section; (7-2-99)T

g. Physical or operational changes made to an existing hospital/medical/infectious waste incinerator solely for the purpose of complying with emission guidelines under 40 CFR Part 60, Subpart Ce are not considered a modification and do not result in an existing hospital/medical/infectious waste incinerator becoming subject to this Section; (7-2-99)T

h. Affected facilities subject to this Section are not subject to the requirements of 40 CFR Part 64. (7-2-99)T

03. Definitions. As used in this Section, definitions shall have the meaning given in 40 CFR Part 60 including, but not limited to: (7-2-99)T

a. "Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. (7-2-99)T

b. "Co-fired combustor" means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, ten percent (10%) or less of the weight of which is comprised, in aggregate, of hospital waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted. (7-2-99)T

c. "Hospital" means any facility which has an organized medical staff, maintains at least six (6) inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of twenty-four (24) hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuous medical supervision. (7-2-99)T

d. "Hospital/medical/infectious waste incinerator" or HMIWI means any device that combusts any amount of hospital waste and/or medical/infectious waste. (7-2-99)T

e. "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. This definition does not include human corpses, remains and anatomical parts intended for interment or cremation. (7-2-99)T

f. "Infectious agent" means any organism such as a virus or bacteria that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans. (7-2-99)T

g. "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)). (7-2-99)T

h. "Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that is listed in Subsections 861.03.h.i. through 861.03.h.vii. The definition of medical/infectious waste does not include hazardous waste identified or listed under 40 CFR Part 261; household waste as defined in 40 CFR Section 261.4(b)(1); ash from incineration of medical/infectious waste once the incineration process is completed; human corpses, remains, and anatomical parts intended for interment or cremation; and domestic sewage materials identified in 40 CFR Section 261.4(a)(1); (7-2-99)T

i. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate and mix cultures. (7-2-99)T

ii. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers. (7-2-99)T

iii. Human blood and blood products including: (7-2-99)T

(1) Liquid waste human blood; (7-2-99)T

(2) Products of blood; (7-2-99)T

(3) Items saturated and/or dripping with human blood; or (7-2-99)T

(4) Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category. (7-2-99)T

iv. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips. (7-2-99)T

v. Animal waste including contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals. (7-2-99)T

vi. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases. (7-2-99)T

vii. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes and scalpel blades. (7-2-99)T

i. "Modification or modified hospital/medical/infectious waste incinerator" means any change to a hospital/medical/infectious waste incinerator unit after the effective date of this Section such that: (7-2-99)T

(1) The cumulative costs of the modifications, over the life of the unit, exceed fifty percent (50%) of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs; or (7-2-99)T

(2) The change involves a physical change or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under Sections 129 or 111 of the Clean Air Act. (7-2-99)T

j. "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material and animal bedding (if applicable); (7-2-99)T

k. "Pyrolysis" means the endothermic gasification of hospital waste and/or medical/infectious waste using external energy. (7-2-99)T

04. Requirements. The following requirements apply to all owners or operators of HMIWI subject to this Section. (7-2-99)T

a. All owners or operators of hospital/medical/infectious waste incinerators subject to this Section must comply with 40 CFR Part 60, Subpart Ec as incorporated by reference into these rules at Section 107. Where "Administrator" or "EPA" appears in 40 CFR Part 60, "Department" shall be substituted, except in any section of 40 CFR Part 60 for which a federal rule or delegation specifically indicates that authority will not be delegated to the state. (7-2-99)T

b. Beginning September 15, 2000 or on the effective date of an EPA-approved operating permit program under Clean Air Act Title V and the implementing regulations under 40 CFR Part 70, whichever date is later, affected facilities shall operate pursuant to a permit issued under the EPA approved state operating permit program. (7-2-99)T

862. EMISSION GUIDELINES FOR HOSPITAL/MEDICAL/INFECTIOUS WASTE INCINERATORS THAT COMMENCED CONSTRUCTION BEFORE JUNE 20, 1996.

01. Applicability. All owners or operators of each individual hospital/medical/infectious waste incinerator for which construction is commenced on or before June 20, 1996, are subject to this Section except as noted in Subsection 862.02. (7-2-99)T

02. Exemptions. (7-2-99)T

a. A combustor is not subject to this Section during periods when only pathological waste, low-level radioactive waste, and/or chemotherapeutic waste is burned, provided the owner or operator of the combustor: (7-2-99)T

i. Notifies the Department of an exemption claim; and (7-2-99)T

ii. Keeps records on a calendar quarter basis of the periods of time when only pathological waste, low-level radioactive waste and/or chemotherapeutic waste is burned. (7-2-99)T

b. Any co-fired combustor is not subject to this Section if the owner or operator of the co-fired combustor: (7-2-99)T

i. Notifies the Department of an exemption claim; (7-2-99)T

ii. Provides an estimate of the relative amounts of hospital waste, medical/infectious waste, and other fuels and wastes to be combusted; and (7-2-99)T

iii. Keeps records on a calendar quarter basis of the weight of hospital waste and medical/infectious waste combusted, and the weight of all other fuels and wastes combusted at the co-fired combustor. (7-2-99)T

c. Any combustor required to have a permit under Section 3005 of the Solid Waste Disposal Act is not subject to this Section. (7-2-99)T

d. Any combustor which meets the applicability requirements under 40 CFR Part 60, Subparts Cb, Ea or Eb (relates to certain municipal waste combustors) is not subject to this Section. (7-2-99)T

e. Any pyrolysis unit is not subject to this Section. (7-2-99)T

f. Cement kilns firing hospital waste and/or medical/infectious waste are not subject to this Section. (7-2-99)T

g. Physical or operational changes made to an existing hospital/medical/infectious waste incinerator solely for the purpose of complying with emission guidelines under 40 CFR Part 60, Subpart Ce are not considered a modification and do not result in an existing hospital/medical/infectious waste incinerator becoming subject to this Section. (7-2-99)T

h. Affected facilities subject to this Section are not subject to the requirements of 40 CFR Part 64. (7-2-99)T

03. Definitions. As used in this Section, definitions shall have the meaning given in 40 CFR Part 60 including, but not limited to: (7-2-99)T

a. "Chemotherapeutic waste" means waste material resulting from the production or use of antineoplastic agents used for the purpose of stopping or reversing the growth of malignant cells. (7-2-99)T

b. "Co-fired combustor" means a unit combusting hospital waste and/or medical/infectious waste with other fuels or wastes (e.g., coal, municipal solid waste) and subject to an enforceable requirement limiting the unit to combusting a fuel feed stream, ten percent (10%) or less of the weight of which is comprised, in aggregate, of hospital

waste and medical/infectious waste as measured on a calendar quarter basis. For purposes of this definition, pathological waste, chemotherapeutic waste, and low-level radioactive waste are considered "other" wastes when calculating the percentage of hospital waste and medical/infectious waste combusted. (7-2-99)T

c. "Hospital" means any facility which has an organized medical staff, maintains at least six (6) inpatient beds, and where the primary function of the institution is to provide diagnostic and therapeutic patient services and continuous nursing care primarily to human inpatients who are not related and who stay on average in excess of twenty-four (24) hours per admission. This definition does not include facilities maintained for the sole purpose of providing nursing or convalescent care to human patients who generally are not acutely ill but who require continuous medical supervision. (7-2-99)T

d. "Hospital/medical/infectious waste incinerator" or HMIWI means any device that combusts any amount of hospital waste and/or medical/infectious waste. (7-2-99)T

e. "Hospital waste" means discards generated at a hospital, except unused items returned to the manufacturer. This definition does not include human corpses, remains and anatomical parts intended for interment or cremation. (7-2-99)T

f. "Infectious agent" means any organism such as a virus or bacteria that is capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans. (7-2-99)T

g. "Large HMIWI", except as provided in Subsections 862.03.g.iv.(1) and 862.03.g.iv.(2), means: (7-2-99)T

i. A HMIWI whose maximum design waste burning capacity is more than five hundred (500) pounds per hour; or (7-2-99)T

ii. A continuous or intermittent HMIWI whose maximum charge rate is more than five hundred (500) pounds per hour; or (7-2-99)T

iii. A batch HMIWI whose maximum charge rate is more than four thousand (4,000) pounds per day. (7-2-99)T

iv. The following are not large HMIWI: (7-2-99)T

(1) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to five hundred (500) pounds per hour; or (7-2-99)T

(2) A batch HMIWI whose maximum charge rate is less than or equal to four thousand (4,000) pounds per day. (7-2-99)T

h. "Low-level radioactive waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level radioactive waste is not high-level radioactive waste, spent nuclear fuel, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)). (7-2-99)T

i. "Medical/infectious waste" means any waste generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production of testing of biologicals that is listed in Subsections 862.03.i.i. through 862.03.i.vii. The definition of medical/infectious waste does not include hazardous waste identified or listed under 40 CFR Part 261; household waste as defined in 40 CFR Section 261.4(b)(1); ash from incineration of medical/infectious waste once the incineration process is completed; human corpses, remains, and anatomical parts intended for interment or cremation; and domestic sewage materials identified in 40 CFR Section 261.4(a)(1): (7-2-99)T

i. Cultures and stocks of infectious agents and associated biologicals, including: cultures from medical and pathological laboratories; cultures and stocks of infectious agents from research and industrial

laboratories; wastes from the production of biologicals; discarded live and attenuated vaccines; and culture dishes and devices used to transfer, inoculate and mix cultures; (7-2-99)T

ii. Human pathological waste, including tissues, organs, and body parts and body fluids that are removed during surgery or autopsy, or other medical procedures, and specimens of body fluids and their containers. (7-2-99)T

iii. Human blood and blood products including: (7-2-99)T

(1) Liquid waste human blood; (7-2-99)T

(2) Products of blood; (7-2-99)T

(3) Items saturated and/or dripping with human blood; or (7-2-99)T

(4) Items that were saturated and/or dripping with human blood that are now caked with dried human blood; including serum, plasma, and other blood components, and their containers which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals. Intravenous bags are also included in this category. (7-2-99)T

iv. Sharps that have been used in animal or human patient care or treatment or in medical, research, or industrial laboratories, including hypodermic needles, syringes (with or without the attached needle), pasteur pipettes, scalpel blades, blood vials, needles with attached tubing, and culture dishes (regardless of presence of infectious agents). Also included are other types of broken or unbroken glassware that were in contact with infectious agents, such as used slides and cover slips. (7-2-99)T

v. Animal waste including contaminated animal carcasses, body parts and bedding of animals that were known to have been exposed to infectious agents during research (including research in veterinary hospitals), production of biologicals or testing of pharmaceuticals. (7-2-99)T

vi. Isolation wastes including biological waste and discarded materials contaminated with blood, excretions, exudates or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases. (7-2-99)T

vii. Unused sharps including the following unused, discarded sharps: hypodermic needles, suture needles, syringes and scalpel blades. (7-2-99)T

j. "Medium HMIWI": (7-2-99)T

i. Except as provided in Subsection 862.03.j.ii., medium HMIWI means: (7-2-99)T

(1) A HMIWI whose maximum design waste burning capacity is more than two hundred (200) pounds per hour but less than or equal to five hundred (500) pounds per hour; or (7-2-99)T

(2) A continuous or intermittent HMIWI whose maximum charge rate is more than two hundred (200) pounds per hour but less than or equal to five hundred (500) pounds per hour; or (7-2-99)T

(3) A batch HMIWI whose maximum charge rate is more than one thousand six hundred (1,600) pounds per day but less than or equal to four thousand (4,000) pounds per day. (7-2-99)T

ii. The following are not medium HMIWI: (7-2-99)T

(1) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to two hundred (200) pounds per hour or more than five hundred (500) pounds per hour; or (7-2-99)T

(2) A batch HMIWI whose maximum charge rate is more than four thousand (4,000) pounds per day or less than or equal to one thousand six hundred (1,600) pounds per day. (7-2-99)T

k. "Modification or modified hospital/medical/infectious waste incinerator" means any change to a HMIWI unit after the effective date of these standards such that: (7-2-99)T

i. The cumulative costs of the modifications, over the life of the unit, exceed fifty percent (50%) of the original cost of the construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs; or (7-2-99)T

ii. The change involves a physical change or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under Sections 129 or 111 of the Clean Air Act. (7-2-99)T

l. "Pathological waste" means waste material consisting of only human or animal remains, anatomical parts, and/or tissue, the bags/containers used to collect and transport the waste material and animal bedding (if applicable); (7-2-99)T

m. "Pyrolysis" means the endothermic gasification of hospital waste and/or medical/infectious waste using external energy; (7-2-99)T

n. "Small HMIWI": (7-2-99)T

i. Except as provided in Subsection 862.03.n.ii, small HMIWI means: (7-2-99)T

(1) A HMIWI whose maximum design waste burning capacity is less than or equal to two hundred (200) pounds per hour; or (7-2-99)T

(2) A continuous or intermittent HMIWI whose maximum charge rate is less than or equal to two hundred (200) pounds per hour; or (7-2-99)T

(3) A batch HMIWI whose maximum charge rate is less than or equal to one thousand six hundred (1,600) pounds per day. (7-2-99)T

ii. The following are not small HMIWI: (7-2-99)T

(1) A continuous or intermittent HMIWI whose maximum charge rate is more than two hundred (200) pounds per hour; or (7-2-99)T

(2) A batch HMIWI whose maximum charge rate is more than one thousand six hundred (1,600) pounds per day. (7-2-99)T

04. Requirements. The following requirements apply to all owners or operators of HMIWI subject to this Section: (7-2-99)T

a. Except as provided in Subsection 862.04.b., all owners or operators of HMIWI subject to this Section shall comply with the following requirements within one (1) year after EPA approval of the State Plan: (7-2-99)T

i. Emission limits: (7-2-99)T

(1) Small HMIWI: (7-2-99)T

(a) Particulate matter: One hundred fifteen (115) milligrams per dry standard cubic meter (mg/dscm). (7-2-99)T

(b) Carbon monoxide: Forty (40) parts per million by volume (ppm). (7-2-99)T

(c) Dioxins/furans: One hundred twenty-five (125) nanograms per dry standard cubic meter (ng/dscm).

- (7-2-99)T
- (d) Hydrogen chloride: One hundred (100) ppm or ninety-three percent (93%) reduction. (7-2-99)T
 - (e) Sulfur dioxide: Fifty-five (55) ppm. (7-2-99)T
 - (f) Nitrogen oxides: Two hundred fifty (250) ppm. (7-2-99)T
 - (g) Lead: One point two (1.2) mg/dscm or seventy percent (70%) reduction. (7-2-99)T
 - (h) Cadmium: Point sixteen (0.16) mg/dscm or sixty-five percent (65%) reduction. (7-2-99)T
 - (i) Mercury: Point fifty-five (0.55) mg/dscm or eighty-five percent (85%) reduction. (7-2-99)T
 - (2) Medium HMIWI: (7-2-99)T
 - (a) Particulate matter: Sixty-nine (69) mg/dscm. (7-2-99)T
 - (b) Carbon monoxide: Forty (40) ppm. (7-2-99)T
 - (c) Dioxins/furans: One hundred twenty-five (125) ng/dscm. (7-2-99)T
 - (d) Hydrogen chloride: One hundred (100) ppm or ninety-three percent (93%) reduction. (7-2-99)T
 - (e) Sulfur dioxide: Fifty-five (55) ppm. (7-2-99)T
 - (f) Nitrogen oxides: Two hundred fifty (250) ppm. (7-2-99)T
 - (g) Lead: One point two (1.2) mg/dscm or seventy percent (70%) reduction. (7-2-99)T
 - (h) Cadmium: Point sixteen (0.16) mg/dscm or sixty-five (65%) reduction. (7-2-99)T
 - (i) Mercury: Point fifty-five (0.55) mg/dscm or eighty-five percent (85%) reduction. (7-2-99)T
 - (3) Large HMIWI: (7-2-99)T
 - (a) Particulate matter: Thirty-four (34) mg/dscm. (7-2-99)T
 - (b) Carbon monoxide: Forty (40) ppm. (7-2-99)T
 - (c) Dioxins/furans: One hundred twenty-five (125) ng/dscm; (7-2-99)T
 - (d) Hydrogen chloride: One hundred (100) ppm or ninety-three percent (93%) reduction. (7-2-99)T
 - (e) Sulfur dioxide: Fifty-five (55) ppm. (7-2-99)T
 - (f) Nitrogen oxides: Two hundred fifty (250) ppm. (7-2-99)T
 - (g) Lead: One point two (1.2) mg/dscm or seventy percent (70%) reduction. (7-2-99)T
 - (h) Cadmium: Point sixteen (0.16) mg/dscm or sixty-five percent (65%) reduction. (7-2-99)T
 - (i) Mercury: Point fifty-five (0.55) mg/dscm or eighty-five (85%) reduction. (7-2-99)T
 - ii. Stack opacity requirements as provided in 40 CFR Section 60.52c(b) of Subpart Ec. (7-2-99)T

- Ec. iii. Operator training and qualification requirements as provided in 40 CFR Section 60.53c of Subpart (7-2-99)T
- iv. Waste management plan as provided in 40 CFR Section 60.55c of Subpart Ec. (7-2-99)T
- v. Compliance and performance testing as provided in 40 CFR Section 60.56c of Subpart Ec
excluding the fugitive emissions testing requirements under Section 60.56c(b)(12) and (c)(3) of Subpart Ec. (7-2-99)T
- vi. Monitoring requirements as provided in 40 CFR Section 60.57c of Subpart Ec. (7-2-99)T
- vii. Reporting and recordkeeping requirements as provided in 40 CFR Section 60.58c(b)-(f) of Subpart
Ec excluding fugitive emissions under Section 60.58c(b)(2)(ii) and siting under Section 60.58c(b)(7). (7-2-99)T
- viii. Permit requirements. Beginning September 15, 2000 or on the effective date of an EPA-approved
operating permit program under Clean Air Act title V and the implementing regulations under 40 CFR Part 70,
whichever date is later, affected facilities shall operate pursuant to a permit issued under the EPA approved state
operating permit program. (7-2-99)T
- b. All owners or operators of small HMIWI that are located more than fifty (50) miles from the
boundary of the nearest Standard Metropolitan Statistical Area and which burn less than two thousand (2,000) pounds
per week of hospital/medical/infectious waste, shall comply with the following requirements within one (1) year after
EPA approval of the State plan in lieu of the requirements in Subsection 862.04.a.: (7-2-99)T
- i. Emission limits: (7-2-99)T
- (1) Particulate matter: One hundred ninety-seven (197) mg/dscm. (7-2-99)T
- (2) Carbon monoxide: Forty (40) ppm. (7-2-99)T
- (3) Dioxins/furans: Eight hundred (800) ng/dscm. (7-2-99)T
- (4) Hydrogen chloride: Three thousand one hundred (3,100) ppm. (7-2-99)T
- (5) Sulfur dioxide: Fifty-five (55) ppm. (7-2-99)T
- (6) Nitrogen oxides: Two hundred fifty (250) ppm. (7-2-99)T
- (7) Lead: Ten (10) mg/dscm. (7-2-99)T
- (8) Cadmium: Four (4) mg/dscm. (7-2-99)T
- (9) Mercury: Seven point five (7.5) mg/dscm. (7-2-99)T
- ii. Stack opacity requirements as provided in 40 CFR Section 60.52c(b) of Subpart Ec. (7-2-99)T
- iii. Initial equipment inspection which, at a minimum includes the following: (7-2-99)T
- (1) Inspect all burners, pilot assemblies, and pilot sensing devices for proper operation; clean pilot
flame sensor, as necessary; (7-2-99)T
- (2) Ensure proper adjustment of primary and secondary chamber combustion air, and adjust as
necessary; (7-2-99)T
- (3) Inspect hinges and door latches, and lubricate as necessary; (7-2-99)T
- (4) Inspect dampers, fans, and blowers for proper operation; (7-2-99)T

- (5) Inspect HMIWI door and door gaskets for proper sealing; (7-2-99)T
- (6) Inspect motors for proper operation; (7-2-99)T
- (7) Inspect primary chamber refractory lining; clean and repair/replace lining as necessary; (7-2-99)T
- (8) Inspect incinerator shell for corrosion and/or hot spots; (7-2-99)T
- (9) Inspect secondary/tertiary chamber and stack, clean as necessary; (7-2-99)T
- (10) Inspect mechanical loader, including limit switches, for proper operation, if applicable; (7-2-99)T
- (11) Visually inspect waste bed (grates), and repair/seal, as appropriate; (7-2-99)T
- (12) For the burn cycle that follows the inspection, document that the incinerator is operating properly and make any necessary adjustments; (7-2-99)T
- (13) Inspect air pollution control device(s) for proper operation, if applicable; (7-2-99)T
- (14) Inspect waste heat boiler systems to ensure proper operation, if applicable; (7-2-99)T
- (15) Inspect bypass stack components; (7-2-99)T
- (16) Ensure proper calibration of thermocouples, sorbent feed systems and any other monitoring equipment; and (7-2-99)T
- (17) Generally observe that the equipment is maintained in good operating condition. (7-2-99)T
- iv. Equipment repairs. Within ten (10) operating days following an equipment inspection all necessary repairs shall be completed unless the owner or operator obtains written approval from the Department establishing a date whereby all necessary repairs of the designated facility shall be completed. (7-2-99)T
- v. Equipment inspection. Equipment inspections shall be conducted annually (no more than twelve (12) months following the previous annual equipment inspection), as outlined in Subsection 862.04.b.iii. and 862.04.b.iv. (7-2-99)T
- vi. Compliance and performance testing requirements as follows: (7-2-99)T
- (1) Compliance and performance testing requirements as provided in 40 CFR Section 60.56c(a)(b)(1) through (b)(9), (b)(11) (Hg only), and (c)(1) of Subpart Ec. The two thousand (2,000) lb/week limitation under Subsection 862.04.b. does not apply during performance tests. (7-2-99)T
- (2) Establish maximum charge rate and minimum secondary chamber temperature as site-specific operating parameters during the initial performance test to determine compliance with applicable emission limits. (7-2-99)T
- (3) Following the date on which the initial performance test is completed or is required to be completed under 40 CFR Section 60.8, whichever date comes first, ensure that the designated facility does not operate above the maximum charge rate or below the minimum secondary chamber temperature measured as three (3) hour rolling averages (calculated each hour as the average of the previous three (3) operating hours) at all times except during periods of startup, shutdown and malfunction. Operating parameter limits do not apply during performance tests. Operation above the maximum charge rate or below the minimum secondary chamber temperature shall constitute a violation of the established operating parameter(s). (7-2-99)T
- (4) Except as provided in Subsection 862.04.b.vi.(5), operation of the designated facility above the maximum charge rate and below the minimum secondary chamber temperature (each measured on a three (3) hour

rolling average) simultaneously shall constitute a violation of the PM, CO, and dioxin/furan emission limits:

(7-2-99)T

(5) The owner or operator of a designated facility may conduct a repeat performance test within thirty (30) days of violation of applicable operating parameter(s) to demonstrate that the designated facility is not in violation of the applicable emission limit(s). Repeat performance tests conducted pursuant to this paragraph must be conducted using the identical operating parameters that indicated a violation under Subsection 862.04.b.vi.(4).

(7-2-99)T

vii. Monitoring requirements as follows:

(7-2-99)T

(1) Install, calibrate (to manufacturers' specifications), maintain, and operate a device for measuring and recording the temperature of the secondary chamber on a continuous basis, the output of which shall be recorded, at a minimum, once every minute throughout operation.

(7-2-99)T

(2) Install, calibrate (to manufacturers' specifications), maintain, and operate a device which automatically measures and records the date, time, and weight of each charge fed into the HMIWI.

(7-2-99)T

(3) The owner or operator of a designated facility shall obtain monitoring data at all times during HMIWI operation except during periods of monitoring equipment malfunction, calibration, or repair. At a minimum, valid monitoring data shall be obtained for seventy-five percent (75%) of the operating hours per day and for ninety percent (90%) of the operating hours per calendar quarter that the designated facility is combusting hospital waste and/or medical/infectious waste.

(7-2-99)T

viii. Reporting and recordkeeping requirements as follows:

(7-2-99)T

(1) Maintain records of the annual equipment inspections, any required maintenance, and any repairs not completed within ten (10) days of an inspection or the timeframe established by the Department; and

(7-2-99)T

(2) Submit an annual report containing information recorded under Subsection 862.04.b.vii.(1) no later than sixty (60) days following the year in which data were collected. Subsequent reports shall be sent no later than twelve (12) calendar months following the previous report, once the unit is subject to permitting requirements under Title V of the Clean Air Act, the owner or operator must submit these reports semiannually. The report shall be signed by the facilities manager.

(7-2-99)T

863. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

DOCKET NO. 16-0101-9904

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 9-342A(8), 39-105 and 39-107, Idaho Code. In addition, this rulemaking is mandated by the U.S. Environmental Protection Agency (EPA) for approval of the state's Title V Operating Permit Program pursuant to 40 CFR Part 70 and fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this proposed rulemaking will be held as follows:

Thursday, September 9, 1999, 7:00 p.m.
Division of Environmental Quality Conference Center
1410 N. Hilton, Boise, Idaho

The meeting site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208) 373-0418.

DESCRIPTIVE SUMMARY: The Idaho Department of Health and Welfare, Division of Environmental Quality (Department) annually updates the Rules for the Control of Air Pollution in Idaho, IDAPA 16.01.01, to maintain conformance with EPA's regulations as well as fulfilling the requirements of Idaho's delegation agreement with EPA under Section 112(l) of the Clean Air Act. This proposal will update the state rules so that the federal regulations incorporated by reference include those revised as of July 1, 1999. This includes the Maximum Achievable Control Technology (MACT) Standards promulgated as National Emissions Standards for Hazardous Air Pollutants (NESHAPS). This proposed rule also implements 1998 amendments to the public records statute and the Environmental Protection and Health Act by updating the requirements of Section 128, Confidential Information.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Department intends to present the final proposal to the Board of Health and Welfare in November 1999 for adoption of a temporary and pending rule. The temporary rule is expected to be effective December 1, 1999 and the pending rule is expected to be final and effective upon the conclusion of the 2000 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the nature of this rulemaking does not lend itself to the negotiated rulemaking process.

GENERAL INFORMATION: For more information about the Division of Environmental Quality's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on questions concerning the proposed rulemaking, contact Tim Teater at (208)373-0502 or tteater@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. All written comments must be received by the undersigned on or before September 10, 1999.

Dated this 23rd day of June, 1999.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481/psaul@deq.state.id.us

THE FOLLOWING IS TEXT OF DOCKET NO. 16-0101-9904

008. DEFINITIONS FOR THE PURPOSES OF SECTIONS 300 THROUGH 386.

- 01. Affected States.** All States: (5-1-94)
- a. Whose air quality may be affected by the emissions of the Tier I source and that are contiguous to Idaho; or (5-1-94)
- b. That are within fifty (50) miles of the Tier I source. (5-1-94)
- 02. Allowance.** An authorization allocated to a Phase II source by the EPA to emit during or after a specified calendar year, one (1) ton of sulfur dioxide. (5-1-94)
- 03. Applicable Requirement.** All of the following if approved or promulgated by EPA as they apply to emissions units in a Tier I source (including requirements that have been promulgated through rulemaking at the time of permit issuance but which have future-effective compliance dates): (5-1-94)
- a. Any standard or other requirement provided for in the applicable state implementation plan, including any revisions to that plan that are specified in 40 CFR Parts 52.670 through 52.690. (5-1-94)
- b. Any term or condition of any permits to construct issued by the Department pursuant to Sections 200 through 223 or by EPA pursuant to 42 U.S.C. Sections 7401 through 7515; provided that terms or conditions relevant only to toxic air pollutants are not applicable requirements. (11-13-98)T
- c. Any standard or other requirement under 42 U.S.C. Section 7411 including 40 CFR Part 60; (5-1-94)
- d. Any standard or other requirement under 42 U.S.C. Section 7412 including 40 CFR Part 61 and 40 CFR Part 63; (5-1-94)
- e. Any standard or other requirement of the acid rain program under 42 U.S.C. Sections 7651 through 7651o; (5-1-94)
- f. Any requirements established pursuant to 42 U.S.C. Section 7414(a)(3), 42 U.S.C. Section 7661c(b) or Sections 120 through 128 of these rules; (3-23-98)
- g. Any standard or other requirement governing solid waste incineration, under 42 U.S.C. Section 7429; (5-1-94)
- h. Any standard or other requirement for consumer and commercial products and tank vessels, under 42 U.S.C. Sections 7511b(e) and (f); and (5-1-94)
- i. Any standard or other requirement under 42 U.S.C. Sections 7671 through 7671q including 40 CFR

Part 82. (5-1-94)

j. Any ambient air quality standard or increment or visibility requirement provided in 42 U.S.C. Sections 7470 through 7492, but only as applied to temporary sources receiving Tier I operating permits under Section 324. (5-1-94)

04. Designated Representative. A responsible person or official authorized by the owner or operator of a Phase II unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a Phase II unit, and the submission of and compliance with permits, permit applications, and compliance plans for the Phase II unit. (5-1-94)

05. Draft Permit. The version of a Tier I operating permit that is made available by the Department for public participation and affected State review. (5-1-94)

06. Emergency. For the purposes of Section 332, an emergency is any situation arising from sudden and reasonably unforeseeable events beyond the control of the owner or operator, including acts of God, which situation requires immediate corrective action to restore normal operation and that causes the Tier I source to exceed a technology-based emission limitation under the Tier I operating permit due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. (11-13-98)T

07. Final Permit. The version of a Tier I permit issued by the Department that has completed all review procedures required in Sections 364 and 366. (5-1-94)

08. General Permit. A Tier I permit issued pursuant to Section 335. (3-23-98)

09. Insignificant Activity. Those activities that qualify as insignificant in accordance with Section 317. (3-23-98)

10. Major Facility. A facility (as defined in Section 006) is major if the facility meets any of the following criteria: (3-23-98)

a. For hazardous air pollutants: (3-23-98)

i. The facility emits or has the potential to emit ten (10) tons per year (tpy) or more of any hazardous air pollutant, other than radionuclides, which has been listed pursuant to 42 U.S.C. Section 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

ii. The facility emits or has the potential to emit twenty-five (25) tpy or more of any combination of any hazardous air pollutants, other than radionuclides, which have been listed pursuant to 42 U.S.C. 7412(b); provided that emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any oil or gas pipeline compressor or pump station shall not be aggregated with emissions from other similar emission units within the facility. (5-1-94)

b. For non-attainment areas: (3-23-98)

i. The facility is located in a "serious" particulate matter (PM-10) nonattainment area and the facility has the potential to emit seventy (70) tpy or more of PM-10. (5-1-94)

ii. The facility is located in a "serious" carbon monoxide nonattainment area in which stationary sources are significant contributors to carbon monoxide levels and the facility has the potential to emit fifty (50) tpy or more of carbon monoxide. (5-1-94)

iii. The facility is located in an ozone transport region established pursuant to 42 U.S.C. Section 7511c and the facility has the potential to emit fifty (50) tpy or more of volatile organic compounds. (5-1-94)

iv. The facility is located in an ozone nonattainment area and, depending upon the classification of the nonattainment area, the facility has the potential to emit the following amounts of volatile organic compounds or oxides of nitrogen; provided that oxides of nitrogen shall not be included if the facility has been identified in accordance with 42 U.S.C. Section 7411a(f)(1) or (2) if the area is "marginal" or "moderate", one hundred (100) tpy or more, if the area is "serious", fifty (50) tpy or more, if the area is "severe", twenty-five (25) tpy or more, and if the area is "extreme", ten (10) tpy or more. (3-23-98)

c. The facility emits or has the potential to emit one hundred (100) tons per year or more of any regulated air pollutant listed in Subsections 006.84.a. through 006.84.e. The fugitive emissions shall not be considered in determining whether the facility is major unless the facility belongs to one (1) of the following categories: (11-13-98)T

i. Designated facilities. (3-23-98)

ii. All other source categories regulated by 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63, but only with respect to those air pollutants that have been regulated for that category and only if determined by rule by the Administrator of EPA pursuant to Section 302(j) of the Clean Air Act. (4-23-99)T

11. Part 70. Unless specified otherwise in this chapter, all definitions adopted under 40 CFR Part 70, revised as of July 1, 1998~~9~~, are hereby incorporated by reference. (~~3-19-99~~)(____)

12. Permit Revision. Any permit modification, administrative amendment or reopening. (3-19-99)

13. Phase II Source. A source that is subject to emissions reduction requirements of 42 U.S.C. Section 7651 through 7651o and shall have the meaning given to it pursuant to those sections. (5-1-94)

14. Phase II Unit. A unit that is subject to emissions reduction requirements of 42 U.S.C. Sections 7651 through 7651o and the term shall have the meaning given to it pursuant to those sections. (5-1-94)

15. Proposed Permit. The version of a permit that the Department proposes to issue and forwards to the EPA for review. (5-1-94)

16. Section 502(b)(10) Changes. Changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene federally enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements. (3-19-99)

17. Tier I Operating Permit. Any permit covering a Tier I source that is issued, renewed, amended, or revised pursuant to Sections 300 through 386. (3-19-99)

(BREAK IN CONTINUITY OF SECTIONS)

107. INCORPORATIONS BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 107.03 shall constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-1-94)

02. Availability Of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (5-1-94)

- a. All federal publications: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 at (202) 783-3238; and (5-1-94)
- b. All documents herein incorporated by reference: (7-1-97)
- i. Central Office, Division of Environmental Quality, Department of Health and Welfare, 1410 N. Hilton, Boise, Idaho 83706 at (208) 373-0502. (7-1-97)
- ii. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0051, (208) 334-3316. (7-1-97)

03. Documents Incorporated By Reference. The following documents are incorporated by reference into these rules: (5-1-94)

- a. Requirements for Preparation, Adoption, and Submittal of Implementation Plans; Appendix W to Part 51--Guideline on Air Quality Models. 40 CFR Parts 51 and 52 revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- b. Implementation Plan for the Control of Air Pollution in the State of Idaho (SIP), Division of Environmental Quality, Department of Health and Welfare, November 1996. (3-19-99)
- c. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- d. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- e. National Primary and Secondary Ambient Air Quality Standards, 40 CFR Part 50, revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- f. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, Protection of Visibility, Identification of Integral Vistas, Subsection a, 40 CFR Part 51.304(a), revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- g. Approval and Promulgation of Implementation Plans, 40 CFR Part 52, revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- h. Ambient Air Monitoring Reference and Equivalent Methods, 40 CFR Part 53, revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- i. Ambient Air Quality Surveillance, Quality Assurance Requirements for Prevention of Significant Deterioration (PSD Air Monitoring), 40 CFR Part 58, Appendix B, revised as of July 1, 1998. ~~8~~~~9~~. (~~3-19-99~~)()
- j. Standards of Performance for New Stationary Sources, 40 CFR Part 60, revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- k. National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- l. National Emission Standards for Hazardous Air Pollutants for Source Categories, 40 CFR Part 63, revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- m. Permits, 40 CFR Part 72, revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- n. Sulfur Dioxide Allowance System, 40 CFR Part 73, revised as of July 1, 1998~~9~~. (~~3-19-99~~)()
- o. Protection of Stratospheric Ozone, 40 CFR Part 82, revised as of July 1, 1998. (3-19-99)

p. 63 Fed. Reg. 32,743-53 (June 16, 1998) (to be codified at 40 CFR Part 60), amending 40 CFR Part 60, Subparts Cc and WWW. (7-2-99)T

q. 64 Fed. Reg. 9,257-62 (February 24, 1999) (to be codified at 40 CFR Part 60), amending 40 CFR Part 60, Subparts Cc and WWW. (7-2-99)T

(BREAK IN CONTINUITY OF SECTIONS)

128. CONFIDENTIAL INFORMATION.

~~Persons may request that information submitted to the Department be treated as confidential information by separating the confidential information from non-confidential information, clearly identifying each page or portion of the information as confidential and certifying that the information qualifies for confidential treatment in accordance with Idaho Code. Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code and Section 39-111, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 9-342A, Idaho Code, and IDAPA 16.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Division of Environmental Quality". If the information for which the person is requesting confidential treatment is submitted to the Department under Sections 300 through 386 or the terms or conditions of a Tier I operating permit, the person shall also submit the same information directly to the EPA. All documents shall be subject to disclosure in accordance with Idaho Code Sections 9-301 through 9-350 and, if it is applicable, Idaho Code Section 39-111. (3-19-99)()~~

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS

DOCKET NO. 16-0106-9701

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapters 1 and 74, Title 39, Idaho Code. In this rulemaking, the Idaho Department of Health and Welfare, Division of Environmental Quality (DEQ) proposes to adoption of a new rule in conjunction with the proposal repeal of the current rule (Docket No. 16-0106-9901), as described in the descriptive summary below.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning the proposed adoption of a new rule and the proposed repeal of the current rule (Docket No. 16-0106-9901) will be held as a statewide, **interactive video teleconference originating in Boise, Idaho on August 18, 1999 at 7:00 p.m. (6:00 p.m. PDT)**. A representative from DEQ will be at each site to facilitate the hearing. The allotted time for the hearing will be distributed evenly between the six sites. The interactive public hearing will enable the participants to listen to comments that are being made throughout the state, not just the comments that are made at their hearing site.

Hearing locations are:

J. R. Williams Bldg. (Hall of Mirrors)
East Conference Room
700 W. State
Boise, Idaho

College of Southern Idaho
Evergreen Bldg. Room C91
315 Falls Ave.
Twin Falls, Idaho

Idaho State University
Library Room B78
850 S. 9th
Pocatello, Idaho

Center for Higher Education
Room 314
1776 Science Center Dr.
Idaho Falls, Idaho

Work Force Training Center
Room 108
525 W. Clearwater Loop
Post Falls, Idaho

Lewis & Clark State College
Sam Glenn Bldg. Room 50
500 8th Ave.
Lewiston, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208)373-0418.

DESCRIPTIVE SUMMARY: The proposed negotiated rule defines and clarifies the requirements for the management, processing, waste handling, and disposal of non-municipal solid waste. The proposed rule identifies waste types that are not regulated by this rule, establishes a solid waste management facility classification system, and identifies the regulatory requirements for each classified facility. The proposed rule clarifies the content of solid waste management facility applications and states the application review and approval process. The proposed rule lists the general siting and general operating requirements for facilities and establishes ground water monitoring and financial assurance requirements for some facilities. The proposed rule clarifies the closure requirements for facilities. The proposed rule establishes specific criteria for processing facilities, identifies additional requirements for waste handling operations at incinerators and transfer stations, and identifies additional requirements for non-municipal solid waste land fill facilities. The proposed rule also establishes a procedure to implement corrective action at facilities that have caused a significant increase of contaminants above background levels.

DEQ is specifically asking for public comments regarding the list of proposed waste types exempt from this rule. The negotiated rulemaking committee recommended to the DEQ that the rule not include the following waste types, as proposed in Subsection 001.03.b.:

- v. Slag from the production of elemental phosphorus.
- vi. Phospho-gypsum from the production of phosphate fertilizers, which includes the production of

phosphoric acid.

The proposed rule also reestablishes the commercial solid waste siting license fee. DEQ was directed by the Legislature (Section 39-7408C, Idaho Code) to adopt a siting license fee to cover the cost incurred by the DEQ when reviewing a commercial solid waste siting application. This fee was approved by the 1999 Legislature and no changes were made to this portion of the existing Solid Waste Management Rules and Standards.

Coinciding with the publication of the proposed new rule, DEQ is proposing repeal of the current rule under Docket No. 16-0106-9901. The proposed actions have been scheduled so that both actions, once adopted by the Board of Health and Welfare and approved by the Legislature, will take effect simultaneously.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Health and Welfare in November 1999 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2000 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: The text of the rule is based on a consensus recommendation resulting from the negotiated rulemaking process. The negotiation was open to the public. Participants in the negotiation included industry and government representatives. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 97-5, May 7, 1997, page 47.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rule, contact Barry Burnell at (208)373-0502 or bburnell@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. All written comments must be received by the undersigned on or before August 25, 1999.

DATED this 23rd day of June, 1999.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
psaul@deq.state.id.us

THE FOLLOWING IS TEXT OF DOCKET NO. 16-0106-9701

IDAPA 16
TITLE 01
Chapter 06

16.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS

000. LEGAL AUTHORITY.

Chapters 1 and 74, Title 39, Idaho Code, authorize the Director of the Department of Health and Welfare and the Board of Health and Welfare to adopt rules and administer programs to protect water quality and air quality, and to regulate solid waste treatment or disposal and the licensure and certification requirements pertinent thereto. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as Rules of the Department of Health and Welfare IDAPA 16.01.06, "Solid Waste Management Rules and Standards". ()

02. Scope. These rules establish requirements applicable to all solid waste management sites in Idaho, except as specifically provided in this section. ()

03. Wastes Not Regulated Under These Rules.

a. These rules do not apply to the following solid wastes: ()

i. Liquid wastes whose discharge or potential discharge is regulated under federal, state or local water pollution or wastewater land application permits, including management of any solids if management of the solids is a permit term or condition; ()

ii. Hazardous wastes as regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code, and the rules promulgated thereunder; ()

iii. Polychlorinated biphenyl (PCB) waste regulated under the Toxic Substance Control Act, 15 U.S.C. 2601, et seq., with the exception that the PCB Waste Disposal Act, Chapter 62, Title 39, Idaho Code, and these rules shall apply to PCB waste authorized by federal law to be disposed of at a nonhazardous waste landfill that is permitted, licensed or registered under Idaho Law; ()

iv. Slash or slashing areas resulting from the harvesting of timber and the disposal of which is handled pursuant to Chapter 1, Title 38, Idaho Code; ()

v. Wastes handled according to The Wood and Mill Yard Debris Technical Guidance Manual, dated February 1998, developed pursuant to Sections [39-171]39-166 through [39-174]39-169, Chapter 1, Title 39, Idaho Code; ()

vi. Clean soils and clean dredge spoils as regulated under Section 404 of the federal Clean Water Act provided that they are not hazardous wastes as regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; ()

vii. Septage taken to a sewage treatment plant permitted by either the U.S. Environmental Protection Agency or the Department pursuant to IDAPA 16.01.15, "Rules Governing the Cleaning of Septic Tanks"; ()

viii. Radioactive waste over which a governmental entity exercises regulatory authority pursuant to the Atomic Energy Act of 1954, as amended, 42 U.S.C. Sections 2011, et seq.; ()

ix. Petroleum Contaminated Soils (PCS) from a leaking petroleum storage tank system managed as a one time remediation pursuant to IDAPA 16.01.02, "Water Quality Standards and Wastewater Treatment Requirements"; or ()

x. Asbestos as regulated by the Toxic Substances Control Act, as amended, 15 U.S.C. Sections 2601 et seq. ()

b. These rules do not apply to the following wastes, provided that these wastes are not mixed with wastes otherwise regulated by these rules: ()

i. Inert wastes; ()

- ii. Manures and crop (plant) residues ultimately returned to the soils at agronomic rates; ()
- iii. Any agricultural solid waste which is handled pursuant to rules adopted by the Idaho State Department of Agriculture to protect human health and the environment; ()
- iv. Overburden, waste dumps and low grade stock piles from mining operations which are handled pursuant to the Surface Mining Act, Chapter 15, Title 47, Idaho Code; ()
- v. Slag from the production of elemental phosphorus; ()
- vi. Phospho-gypsum from the production of phosphate fertilizers, which includes the production of phosphoric acid; or ()
- vii. Wood waste used for ornamental, animal bedding, mulch and plant bedding, or road building purposes. ()

04. Excluded Solid Waste Management Facilities. These rules do not apply to the following solid waste management facilities: ()

- a. A solid waste management facility at which excluded solid wastes, as set forth in Subsection 001.03 are managed, unless other solid wastes regulated by these rules are also managed at the facility and the facility is not specifically excluded from regulation in this section; ()
- b. Recycling centers; or ()
- c. Backyard composting; ()

002. WRITTEN INTERPRETATIONS.

The Department of Health and Welfare may have written statements that pertain to the interpretation of the rules in this chapter. If available, such written statements can be inspected and copied, at cost, at the Division of Environmental Quality, Department of Health and Welfare, 1410 N. Hilton, Boise, ID 83706-1255. ()

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". ()

004. APPLICABILITY.

This rule applies to all existing, new or modified solid waste management facilities from the effective date of this rule as identified below: ()

01. Solid Waste Facility Other Than MSWLF Applicability. Sections 000 through 499 and Section 999 apply to all solid waste facilities other than MSWLF, as specified therein. ()

02. Municipal Solid Waste Landfill Applicability. Sections 000 through 007, and Sections 500 through 999 apply to all MSWLFs, as specified therein. ()

005. DEFINITIONS.

01. Backyard Composting. Composting operations used only by the owner or person in control of a dwelling unit to dispose of food scraps, garden wastes, weeds, lawn cuttings, leaves, prunings, and other yard waste generated at that residence. ()

02. Commercial Solid Waste Facility. A facility owned and operated as an enterprise conducted with the intent of making a profit by any individual, association, firm, or partnership for the disposal of solid waste, but excludes a facility owned or operated by a political subdivision, state or federal agency, municipality or a facility owned or operated by any individual, association firm, or partnership exclusively for the disposal of solid waste

- generated by such individual, association, firm, or partnership. ()
- 03. Composting.** See Processing, Subsection 005.26. ()
- 04. Department.** The Idaho Department of Health and Welfare, Division of Environmental Quality. ()
- 05. Director.** The Director of the Idaho Department of Health and Welfare. ()
- 06. Disposal.** Discharge, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water. ()
- 07. Existing facility.** A facility operating on the effective date of these rules. ()
- 08. Facility.** Any area used for a single solid waste management activity, including but not limited to: storage, transfer, processing, separation, incineration, treatment, salvaging or disposal of solid wastes. ()
- 09. Garbage.** Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food, including wastes materials from households, markets, storage facilities, handling and sale of produce and other food products. ()
- 10. Ground Water.** Any water of the state that occurs beneath the surface of the earth in a saturated geological formation of rock or soil. ()
- 11. Hazardous Substance.** Any substance defined as a hazardous substance pursuant to Section 101(14) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601 et seq., or Section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1251, et seq.), excluding petroleum contaminated soils. ()
- 12. Household Waste.** Any solid waste, including kitchen wastes, trash and sanitary waste in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas. ()
- 13. Inert Waste.** Noncombustible, nonhazardous, and non-putrescible solid wastes that are likely to retain their physical and chemical structure and have a de minimis potential to generate leachate under expected conditions of disposal, which includes resistance to biological attack. "Inert waste" includes, but is not limited to, rock, concrete, cured asphaltic concrete, masonry block, brick, gravel, and dirt. ()
- 14. Landfill.** An area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well or waste pile, as those terms are defined under 40 CFR 257.2 (1998). ()
- 15. Leachate.** A liquid that has passed through or emerged from waste and contains soluble, suspended, or miscible materials removed from such waste. ()
- 16. Lift.** A vertical rise of compacted solid waste that is complete when it is no longer practical to add additional height without the addition of a cover layer to provide structural stability. ()
- 17. Modification.** Any change in the physical characteristics, waste types managed, method of operation, or expansion beyond the boundaries of a site. The following shall not be considered a modification: ()
- a. Repair and replacement of existing equipment; ()
 - b. Increase in production rate that does not exceed the Tier level criteria or approved facility capacity; ()

c. An increase in hours of operation if more restrictive hours of operation are not specified in a permit;
or ()

d. Acquisition of property that is not used for the management of solid waste. ()

18. Municipal Solid Waste Landfill Unit (MSWLF). As regulated under Chapter 74, Title 39, Idaho Code, a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR 257.2. A MSWLF unit also may receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. ()

19. Non-Municipal Solid Waste (NMSW). NMSW is a solid waste that does not include household waste and that is not a waste excluded from these rules in Subsection 001.03. ()

20. Non-Municipal Solid Waste Landfill (NMSWLF). A landfill that accepts non-municipal solid waste. ()

21. Open Burning. The combustion of solid waste without: ()

a. Control of combustion air to maintain adequate temperature for efficient combustion; ()

b. Containment of the combustion reaction in an enclosed device so as to provide sufficient residence time and mixing for complete combustion; and ()

c. Control of the emission of the combustion products. ()

22. Open Dump. A facility for the disposal of solid waste that does not comply with these rules. ()

23. Operator. The person(s) responsible for the overall operation of a solid waste management site or part of a solid waste management site. ()

24. Owner. The person(s) who owns a solid waste management site or part of a solid waste management site. ()

25. Person. Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal government department, agency, or instrumentality, municipality, industry, or any other legal entity whatsoever. ()

26. Processing. Any method used to prepare solid waste for reuse by composting, or biological or chemical decomposition, excluding waste handling at transfer stations or recycling centers. ()

27. Projected Waste Volume. The total actual or potential solid waste volume in tons per day, or an equivalent measurement, proposed to be disposed at the commercial solid waste facility. ()

28. Pumpable Waste. Wastes, including non-domestic septage, sludge, wastewater and non-municipal solid wastes, which are pumped from a holding area or container into a watertight tank truck or equivalent and transported for processing or disposal. ()

29. Qualified Professional. Qualified professional means a licensed professional geologist or licensed professional engineer, as appropriate, holding current professional registration in compliance with applicable provisions of Idaho Code. ()

30. Recyclables. Used, end, or waste products with useful properties that can be reused or recycled. ()

31. Recycling. The reclamation of solid waste and its subsequent introduction into an industrial

process by which the materials are transformed into a new product in such a manner that the original identity as a product is lost. ()

32. Recycling Center. A materials recovery facility that receives recyclables, then sorts, bales, loads, or physically alters the material and transports the commodities to markets. ()

33. Salvage. The reclamation of solid waste at a disposal site. ()

34. Scavenge. The unauthorized removal of materials from a solid waste management site. ()

35. Septage. A semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system. ()

36. Site. Any contiguous geographic area with one (1) or more facilities owned or operated by the same person for any of the following activities: ()

a. Storage; ()

b. Transfer; ()

c. Processing; ()

d. Separation; ()

e. Incineration; ()

f. Treatment; ()

g. Salvaging; or ()

h. Disposal of solid wastes. ()

37. Site Size. The sum in acres of all proposed solid waste landfill units. ()

38. Solid Waste. Defined in Section 39-7403(50), Idaho Code. ()

39. Speculative Accumulation. Stock piles of materials to be processed for reuse or disposal when fifty percent (50%) of the material is not reused or disposed by the end of the following calendar year, and which may create a nuisance or public health impact. ()

40. Transfer Station. A solid waste management facility or portion thereof where solid wastes are transferred from a vehicle or container and subsequently transported to another solid waste management facility. A transfer station does not include a rural drop-box or other facility where individuals are authorized to store individual waste for ultimate collection and disposal. ()

41. Yard Waste. Weeds, straw, leaves, grass clippings, brush, wood, and other natural, organic, materials typically derived from general landscape maintenance activities. ()

006. ABBREVIATIONS.

01. BRC. Below Regulatory Concern. ()

02. CFR. Code of Federal Regulations. ()

03. EPA. Environmental Protection Agency. ()

04. ISWFA. Idaho Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code. ()

- 05. MSWLF. Municipal Solid Waste Land Fill. ()
- 06. NMSW. Non-Municipal Solid Waste. ()
- 07. NMSWLF. Non-Municipal Solid Waste Land Fill. ()
- 08. PCS. Petroleum Contaminated Soils. ()
- 09. RCRA. Resource Conservation and Recovery Act. ()
- 10. U.S.C. United States Code. ()

007. INCORPORATION BY REFERENCE.

Codes, standards and regulations may be incorporated by reference in this rule pursuant to Section 67-5229, Idaho Code. Such incorporation by reference shall constitute full adoption by reference, including any notes or appendices therein, unless expressly provided otherwise in this rule. Codes, standards or regulations adopted by reference throughout this rule are available in the following locations: ()

01. **Division of Environmental Quality.** Division of Environmental Quality, 1410 N. Hilton, Boise ID 83706-1255; or ()

02. **Law Library.** State Law Library, 451 W. State Street, P.O. Box 83720, Boise ID 83720-0051; or ()

03. **U.S. Government Printing Office.** U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174. ()

008. SPECIFIC APPLICABLE REQUIREMENTS FOR BELOW REGULATORY CONCERN FACILITIES.

01. **BRC Facilities.** A facility is below regulatory concern (BRC) provided it is a processing facility, not managing PCS or pumpable waste, and the cumulative volume of material at the facility is less than or equal to three hundred (300) cubic yards. ()

02. **Applicable Requirements For BRC Facilities.** The owner or operator of the facility shall comply with the following general operating requirements: ()

- a. Subsection 035.01; ()
- b. Subsection 035.02; ()
- c. Subsection 035.10; and ()
- d. Subsection 035.12. ()

03. **Application Content, Review and Approval Requirements For BRC Facilities.** Application review and approval is not required. ()

04. **Documentation Requirements.** A facility that qualifies as BRC shall maintain documentation accessible that verifies the facility's BRC status. ()

009. SPECIFIC APPLICABLE REQUIREMENTS FOR TIER I FACILITIES.

01. **Tier I Facility.** A Tier I facility is: ()

a. A landfill that only manages materials such as glass, plastic, cardboard, wood, composition roofing material, roofing paper, or ceramics, and the disposal capacity of the facility is less than or equal to two thousand (2000) cubic yards; ()

b. A processing facility that only manages materials such as untreated or unpainted wood, yard waste, sheet rock, clean paper products, or kitchen wastes without meats or animal fats, and the cumulative volume of material at the facility at anyone time is less than or equal to six hundred (600) cubic yards. The processing facility may commingle any of these materials with inert wastes, animal manures or plant or crop residues; ()

c. A processing facility that manages PCS not excluded under Subsection 001.03.a.ix. or pumpable wastes and the cumulative volume of material at the facility at any one (1) time is less than or equal to two hundred (200) cubic yards; ()

d. An emergency solid waste management facility that only accepts debris resulting from a natural disaster; or ()

e. A facility that does not meet the requirements for a Tier I facility because of the criteria in Subsection 009.01.a., Subsection 009.01.b., or Subsection 009.01.c. may still qualify as a Tier I facility if the owner or operator demonstrates to the Department's satisfaction that it manages wastes of such quantity and character, and in such a manner, so as to be unlikely to produce pollutants or contaminants that may degrade waters or the air of the state of Idaho, or to generate leachate or noxious gases. ()

02. Applicable Requirements For Tier I Facilities. The owner or operator of a Tier I facility shall comply only with the following provisions: ()

a. General siting requirements: The owner or operator of the facility shall comply with the siting requirements of Section 034. All existing Tier I facilities shall meet the siting requirements of Section 034 within five (5) years of the effective date of these regulations. ()

b. General operating requirements. The owner or operator of the facility shall comply with the operating requirements stated in Subsection 009.02.b. The owner or operator of an existing Tier I facility shall comply with the stated requirements within two (2) years after July 1, 2000: ()

i. Subsection 035.01; ()

ii. Subsection 035.02; ()

iii. Subsection 035.03.a.; ()

iv. Subsection 035.03.c.; ()

v. Subsection 035.08; ()

vi. Subsection 035.09; ()

vii. Subsection 035.10; ()

viii. Subsection 035.12; and ()

ix. Subsection 035.13. ()

c. Facility specific requirements. The owner or operator of the facility shall comply with the applicable facility specific requirements stated in Subsection 009.02.c. The owner or operator of an existing Tier I facility shall comply with the applicable requirements within two (2) years after July 1, 2000: ()

i. Subsection 050.01; ()

- ii. Subsection 055.01.a.; ()
- iii. Subsection 055.01.c.i; ()
- iv. Subsection 055.01.c.ii; ()
- v. Subsection 055.01.c.iii; ()
- vi. Subsection 055.01.c.vi; ()
- vii. Subsection 055.01.d.ii; ()
- viii. Subsection 055.01.d.iii; ()
- ix. Subsection 055.01.d.iv; and ()
- x. Subsection 055.01.e. ()

03. Application Content, Review And Approval Requirements For Tier I Facilities. An owner or operator of any Tier I facility shall comply with the following application, review, and approval requirements: ()

a. Within two (2) years after July 1, 2000 for any existing Tier I facility, or prior to operation of any new Tier I facility, the owner or operator shall submit to the Department a notice of the facility's operation. The notice shall include: ()

i. Name, address and phone number of the facility owner or operator. The notice may also include the name, address and phone number of any agent designated to receive communications regarding the facility; ()

ii. A description of the solid waste management facility; ()

iii. A description of all facilities at the site; ()

iv. A legal description or address of the facility; ()

v. A description of the managed waste stream; and ()

vi. A site map indicating the property boundaries, location of waste disposal areas, location of existing wells, springs, water supply lines, and sewage disposal facilities. ()

b. The Department shall review the notice and shall approve or deny the facility's operation as proposed within thirty (30) days. Failure to approve or deny a proposal within thirty (30) days shall be deemed approval. ()

c. The Department may deny operation as a Tier I facility for any facility: ()

i. Managing wastes of such quantity, characteristic or in such a manner as to be likely to produce pollutants or contaminants that may degrade waters or air of the state of Idaho, or to generate leachate or noxious gases; and ()

ii. Located such that the impacts of the facility when considered with the impacts from others facilities may be likely to produce pollutants or contaminants that may degrade waters or air of the state of Idaho, or to generate leachate or noxious gases. ()

d. Prior to any facility modification, the owner or operator shall submit a revised notice to the Department to reflect anticipated changes. If a proposed modification would alter the Tier status of a facility, the owner or operator shall comply with the application content, review and approval requirements for that Tier. ()

04. Documentation Requirements. The owner or operator shall meet the following documentation requirements: ()

a. For new Tier I facilities, maintain appropriate documentation of the siting requirements and restrictions of Section 034, develop and maintain on site an operating plan that demonstrates compliance with the operating and facility specific requirements, and maintain accessible documentation that verifies the facility's Tier I status. ()

b. Within two (2) years of the effective date of these regulations the owner or operator of an existing Tier I facility shall develop and maintain on site an operating plan that demonstrates compliance with the operating and facility specific requirements, and maintain accessible documentation that verifies the facility's Tier I status. ()

010. SPECIFIC APPLICABLE REQUIREMENTS FOR TIER II FACILITIES.

01. Tier II Facility. A Tier II facility is a facility that does not meet the requirements of either BRC, Tier I or Tier III. ()

a. A facility that does not meet the requirements for a Tier II facility may still qualify as a Tier II facility if it demonstrates to the Department's satisfaction that it manages wastes of such quantity and character, and in such a manner that, when complying with the applicable Tier II requirements, would be unlikely to produce pollutants or contaminants that may degrade waters or the air of the state of Idaho, or to generate leachate or noxious gases. ()

b. The Department may deny operation as a Tier II facility for any facility managing wastes of such quantity, characteristic or in such a manner or location that, when complying with the applicable Tier II requirements, would be likely to produce pollutants or contaminants that may degrade waters and/or air of the state of Idaho, or to generate leachate or noxious gases. ()

02. Applicable Requirements For Tier II Facilities. The owner or operator of a Tier II facility shall comply with the following provisions: ()

a. General Siting Requirements: The owner or operator of the facility shall comply with the siting requirements of Section 034. All existing Tier II facilities shall meet the siting requirements of Section 034 within five (5) years of the effective date of these regulations. ()

b. General Operating Requirements. The owner or operator of the facility shall comply with the operating requirements of Section 035. All existing Tier II facilities shall comply with these requirements within two (2) year after July 1, 2000. ()

c. Closure Requirements. The owner or operator of the facility shall comply with the closure and post-closure care requirements of Section 038. ()

d. Facility Specific Requirements for New or Modified Facilities. The owner or operator of a new or modified facility shall comply with the applicable facility specific requirements stated in Subsection 010.02.d.:()

i. Section 050, excluding Subsection 050.03; ()

ii. Section 053; and ()

iii. Section 055, excluding Subsection 055.01.b., Subsection 055.01.c.v., and Subsection 055.02.b.i. ()

e. Facility Specific Requirements for Existing Facilities. The owner or operator of an existing Tier II facility shall comply with Subsection 055.01.a. within five (5) years after July 1, 2000. The owner or operator of an existing Tier II facility shall comply with the following requirements, as applicable, within two (2) years after July 1, 2000: ()

- i. Section 050, excluding Subsection 050.03; ()
- ii. Section 053; ()
- iii. Section 055, excluding Subsection 055.01.b, Subsection 055.01.c.v., Subsection 055.02.a., and Subsection 055.02.b.i. ()

03. Application Content, Review And Approval Requirements For Tier II Facilities. An owner or operator of a Tier II facility shall comply with the following application, review, and approval requirements: ()

a. Prior to operation of any new Tier II facility, an owner or operator shall obtain approvals as required in Section 031, by submitting written siting, design and operating applications consistent with: ()

- i. Subsection 030.01; ()
- ii. Subsection 030.02; ()
- iii. Subsection 030.03; and ()
- iv. Subsection 030.04. ()

b. The owner or operator of an existing facility may comply with the design and operating application requirements by submitting the required information in any form, which may include existing permits, applications or any necessary addendums. Within two (2) years after July 1, 2000 for any existing Tier II facility, an owner or operator shall apply for approval as required in Section 031 by submitting written design and operating applications consistent with: ()

- i. Subsection 030.01; ()
- ii. Subsection 030.03; and ()
- iii. Subsection 030.04. ()

c. Prior to the end of the intended operating life of the facility, an owner or operator shall submit a closure application consistent with Subsection 030.07 and obtain approval as required in Section 031. ()

d. Prior to any facility modification, the owner or operator shall request approval of the modification by submitting a written request describing the proposed changes. The applicant shall obtain approval prior to implementing the modification. If a proposed modification would alter the Tier status of a facility, the owner or operator shall comply with the application content, review and approval requirements for that Tier. ()

04. Documentation Requirements. The owner or operator shall meet the following documentation requirements: ()

a. For new Tier II facilities, maintain applicable written approvals for the siting, design and operating applications, and maintain on site the operating plan in compliance with the operating and facility specific requirements. ()

b. For an existing Tier II facility, maintain applicable written approvals, as obtained, for design and operating applications, and maintain on site the operating plan in compliance with the operating and facility specific requirements. ()

011. SPECIFIC APPLICABLE REQUIREMENTS FOR TIER III FACILITIES.

01. Tier III Facility. A Tier III facility is a facility that will accept materials such as hazardous

substances and materials with a high pathogen potential, and that will manage these materials in a manner or volume that will form toxic leachate or gases, or will otherwise pose a high risk to human health or the environment. ()

02. Applicable Requirements For Tier III Facilities. The owner or operator of a Tier III facilities shall comply with the following provisions: ()

a. General Siting Requirements: The owner or operator of the facility shall comply with the siting requirements of Section 034. The owner or operator of an existing Tier III facility shall meet the siting requirements of Section 034 within five (5) years after July 1, 2000. ()

b. General Operating Requirements. The owner or operator of the facility shall comply with the operating requirements of Section 035. The owner or operator of an existing Tier III facility shall comply with these requirements within two (2) years after July 1, 2000. ()

c. Ground Water Monitoring Requirements. The owner or operator of the facility shall comply with the ground water monitoring requirements of Section 036. The owner or operator of an existing Tier III facility shall comply with these requirements within two (2) years after July 1, 2000. ()

d. Financial Assurance Requirements. The owner or operator of the facility shall comply with the financial assurance requirements of Section 037. The owner or operator of an existing Tier III facility shall comply with these requirements within two (2) years after July 1, 2000. ()

e. Closure Requirements. The owner or operator of the facility shall comply with the closure requirements of Sections 038. ()

f. Facility Specific Requirements for New or Modified Facilities. The owner or operator of a new or modified facility shall comply with all applicable facility specific requirements of Section 050, Section 053, and Section 055. ()

g. Facility Specific Requirements for Existing Facilities. The owner or operator of an existing Tier III facility shall comply with Subsection 055.01.a. within five (5) years after July 1, 2000. The owner or operator of an existing Tier III facility shall comply with the following requirements, as applicable, within two (2) years after July 1, 2000: ()

i. Section 050; ()

ii. Section 053; or ()

iii. Section 055, excluding Subsection 055.02.a. ()

03. Application Content, Review And Approval Requirements For Tier III Facilities. An owner or operator of a Tier III facility shall comply with the following application, review, and approval requirements. ()

a. Prior to operation of a new Tier III facility the owner or operator shall obtain approvals as required in Section 031, by submitting written siting, design, operating, ground water monitoring, and financial assurance applications consistent with Section 030, excluding Subsection 030.07. ()

b. The owner or operator of an existing facility may comply with the application requirements by resubmitting existing permit applications with any necessary addendums. Within two (2) years after July 1, 2000 for any existing Tier III facility, an owner or operator shall apply for approvals as required in Section 031 by submitting written design, operating, ground water monitoring, and financial assurance applications consistent with Section 030, excluding Subsection 030.02 and Subsection 030.07. ()

c. Prior to the end of the intended operating life of the facility, an owner or operator shall submit a closure application consistent with Subsection 030.07 and obtain approval as required in Section 031. ()

d. Prior to any facility modification, the owner or operator shall request approval of the modification

by submitting a written request describing the proposed changes. The applicant shall obtain approval prior to implementing the modification. ()

04. Documentation Requirements. The owner or operator shall meet the following documentation requirements: ()

a. For New Tier III facilities, maintain applicable written approvals for the siting, design, operating, ground water monitoring, and financial assurance applications, and maintain on site the operating plan in compliance with the operating and facility specific requirements. ()

b. For an existing Tier III facility, maintain applicable written approvals, as obtained, for design, operating, ground water monitoring, and financial assurance applications; and maintain on site the operating plan in compliance with the operating and facility specific requirements. ()

c. Maintain the financial assurance estimates adjusted for inflation. ()

012. -- 029. (RESERVED).

030. APPLICATION CONTENT.

01. Application Requirements. Each application shall be submitted in writing and will include the owner or operator's name, mailing address, facility address, phone number, and the proposed Tier level for the facility. ()

02. Siting Application. The following information shall be submitted for a facility to receive Siting Approval: ()

a. A map indicating the following: ()

i. Highways, roads, and adjacent communities; ()

ii. Property boundaries; ()

iii. Total acreage of the site; ()

iv. Off-site and on-site access roads and service roads; ()

v. Type(s) of land use adjacent to the facility and a description of all facilities on the site; ()

vi. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the proposed facility property lines; ()

vii. High tension power line rights-of-way, fuel transmission pipeline rights-of-way, and proposed and existing utilities; ()

viii. Proposed or existing fencing; ()

ix. Proposed and existing structures at the facility and within five hundred (500) feet of the facility border. This shall include location of employee buildings, and scales (if provided); and ()

x. Direction of prevailing winds. ()

b. Documentation demonstrating compliance with the siting requirements and restrictions specified in Section 034. If the documentation has been certified by a qualified professional, the director shall approve the siting application unless the Director finds the available evidence reasonably supports a contrary opinion. ()

03. Design Application. The application shall contain the following information for Design Approval:

- ()
- a. Building and construction design blueprints. ()
 - b. A map illustrating a storm water run-on/run-off system designed to minimize the spread and impact of contaminants from the facility to other surface or ground water, or beyond the boundary of the facility. "Storm water" means any accumulation of water from natural precipitation, including snow melt. ()
 - c. Operational design and capacity information including a description of the types and quantities of waste materials that will be received; and estimated maximum daily and average annual quantities. ()
 - d. Facility specific design elements as required by these rules. ()
- 04. Operating Application.** The application shall contain an operations plan that includes a description of the wastes that will be accepted, the methods for maintaining compliance with each of the applicable general operating requirements of Section 035, and any applicable facility specific requirements found in Sections 050 through Section 055. ()
- 05. Groundwater Monitoring Application.** The application shall contain the following information: ()
- a. A map showing soil types, depth to ground water, ground water flow direction and locations of proposed ground water monitoring wells. ()
 - b. A monitoring schedule indicating sample frequency and constituents. ()
- 06. Financial Assurance Application.** A financial assurance application shall contain the following information: ()
- a. A detailed written financial assurance estimate, in current dollars, of the cost of hiring a third party to close the largest area of the facility and to conduct post-closure care for the facility. ()
 - b. The mechanism proposed to meet the financial assurance requirements. ()
- 07. Closure Application.** The application shall contain the following information: ()
- a. A complete and accurate legal description of the facility; ()
 - b. A map of the facility, showing pertinent facility features, including; ()
 - i. Facility boundaries, drainage patterns, location of fill areas, and location of access control measures. ()
 - ii. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the proposed facility property lines. ()
 - iii. Location of disposal trenches and description of general waste types disposed. ()
 - iv. Proposed final contours of the closed facility, drawn to a reasonable scale with five (5) foot intervals for the operational area, and ten (10) foot intervals for the remainder of the facility. ()
 - c. Estimated date of last receipt of waste; ()
 - d. A description of how public access to the closed facility will be controlled; ()
 - e. Estimated total cubic yards, or tons, of waste in place; ()

- f. Total acreage of the facility and acres containing waste; ()
- g. Closure equipment and procedures to be used; ()
- h. The texture, depth and permeability of the final cover material; ()
- i. Design and construction plan for any necessary final cover; ()
- j. Placement, details, and management of run-on and run-off storm water controls; ()
- k. Types of vegetation and planting procedures to be used for establishing vegetative cover; ()
- l. Details of any proposed changes to an existing groundwater monitoring system required by these rules; ()
- m. Details of any proposed changes to an existing landfill gas control system required by these rules; ()
- n. Details of any proposed changes to an existing leachate collection system required by these rules; and ()
- o. Other information requested by the Department necessary to protect human health and the environment. ()

031. APPLICATION REVIEW AND APPROVAL.

01. Application Submittal. The applicant shall submit three (3) copies of each required application to the Department. The applicant may submit applications for siting, design, operation, monitoring or financial assurance approval sequentially or concurrently. ()

02. Preapplication Conference. The owner or operator may request that the Department convene a preapplication conference with any interested federal, state and local entities to discuss the approval procedures, application content, time tables for application processing, siting and design requirements. ()

03. Application Review. ()

a. On receipt of an application(s) the Department shall, within thirty (30) days, notify the applicant in writing whether the submission is complete and whether the application identifies an appropriate Tier level. The notice shall identify any deficiencies in the application and shall state that an applicant may submit additional information, withdraw the application or request a conference to discuss the Department's determination. The Department shall not review an incomplete application. ()

b. Upon receipt of a Department's determination that a siting application is complete, the applicant shall publish a notice in a newspaper of general circulation. The notice shall include the name and location of the proposed facility, a general description of the proposed operations, the location where the application may be reviewed, and instructions directing the public to submit comments to the department within sixty (60) days of the date of publication. The applicant shall provide a copy of the published notice to the department within five (5) business days of publication. Any notice otherwise meeting these requirements, published after a siting application is determined to be complete, may be used to satisfy this provision. ()

c. The Department shall approve, deny, or approve with conditions an application consistent with these rules. Approval conditions shall relate to protection of human health and the environment as required in these rules. ()

d. For a siting application, the Department shall notify the applicant in writing of the Department's decision within ninety (90) days of the date of publication of the notice unless otherwise agreed upon by the applicant. For all other applications the Department shall notify the applicant in writing of the Department's decision

within ninety (90) days of determining an application is complete. Failure to issue a decision within the stated time shall be deemed approval. ()

e. If the Department denies an application, the written decision shall state the justifications for the denial. ()

04. Application Valid For One Year. Unless otherwise stated on the approval, the approval shall become invalid if the construction of the facility is not begun within one (1) year from the date of approval, or if during construction work is suspended for one (1) year. An applicant may apply for an extension provided that the request is received by the Department prior to the approval's expiration. ()

032. -- 033. (RESERVED).

034. GENERAL SITING REQUIREMENTS.

01. Endangered Or Threatened Species Restriction. The applicant shall provide appropriate documentation demonstrating whether the United States Fish and Wildlife Service or the Idaho Department of Fish and Game designated any portion of the proposed facility location as critical habitat for endangered or threatened species. ()

02. Flood Plain Restriction. A facility shall not be located within a one hundred (100) year flood plain if the facility will restrict the flow of the one hundred (100) year flood, reduce the temporary water storage capacity of the flood plain, or result in a washout of solid waste so as to pose a hazard to human health and the environment. ()

03. Property Line Restriction. The active portion of a facility shall not be located closer than one hundred (100) feet to the property line. ()

04. Park, Scenic Or Natural Use Restriction. The active portion of a facility shall not be located closer than one thousand (1,000) feet from the boundary of any state or national park, or land reserved or withdrawn for scenic or natural use. ()

05. Surface Water Restriction. The active portion of a facility shall not be located: ()

i. Within three hundred (300) feet of a perennial stream, or river; and ()

ii. Within three hundred (300) feet of any lake or pond, unless such lake or pond is a integral part of the NMSWLF's operation for storm water management and/or leachate management. ()

06. Geologic Restrictions. No facility may be located on land that would be considered unstable or would threaten the integrity of the design. ()

07. Variance From Siting Requirement. Any existing or planned facility that cannot meet the criteria of this Section may apply for a variance from the Department. The Department may approve a written request for a variance provided the owner or operator demonstrates to the Department's satisfaction that the facility's location is no less protective than otherwise provided for in these rules. ()

035. GENERAL OPERATING REQUIREMENTS.

01. Compliance With Federal, State And Local Rules. All solid waste operations, including storage, collection, transfer, transport, processing, separation, incineration, treatment, or disposal, shall comply with applicable Federal, State, and local rules or regulations. Rules of particular applicability may be, but are not limited to, the following: ()

a. IDAPA 16.01.01, "Rules for the Control of Air Pollution in Idaho"; ()

b. IDAPA 16.01.02, "Water Quality Standards and Wastewater Treatment Requirements"; ()

- c. IDAPA 16.01.11, "Ground Water Quality Rule"; ()
- d. Chapter 65, Title 67, Idaho Code, Local Land Use Planning; ()
- e. Chapter 44, Title 31, Idaho Code. Solid Waste Disposal Sites; ()
- f. Chapter 1, Title 52, Idaho Code, Nuisances; and ()
- g. 40 CFR Part 122. ()
- 02. Prohibited Activities.** The following activities are prohibited: ()
 - a. Disposal in a landfill of regulated waste that has not been decontaminated from any business that provides health care, support to health care businesses, or medical diagnostic services. "Regulated waste" and "decontaminated" for the purpose of this Section shall have the same meaning as defined at 29 CFR 1910.1030. ()
 - b. Owning, operating or maintaining an open dump; and ()
 - c. Speculative accumulation, unless otherwise approved in an operations plan. ()
- 03. Signs.** Facilities open to the general public shall clearly post visible and legible signs at each entrance to the facility. The signs shall specify at a minimum: ()
 - a. The name of the facility; ()
 - b. The hours of operation; and ()
 - c. An emergency phone number. ()
- 04. Waste Types.** Only the solid waste types listed in the approved operations plan may be accepted for disposal or processing. ()
- 05. Waste Monitoring And Measurement.** Provisions shall be made for monitoring or measuring all solid waste delivered to the facility. The waste monitoring program shall include: ()
 - a. A daily written log listing the types and quantities of wastes received; ()
 - b. A schedule for monitoring receipt of unauthorized wastes; ()
 - c. Routine characterization of the wastes received; and ()
 - d. Other measures stated in an approved operations plan. ()
- 06. Communication.** Communication devices shall be available or reasonably accessible at the site. ()
- 07. Fire Prevention and Control.** Adequate provisions shall be made for controlling or managing fires at the site. ()
- 08. Facility Access.** Unauthorized vehicles and persons shall be prohibited access to the facility. A facility open to the public shall accept waste only when an attendant is on duty. The facility shall be fenced or otherwise blocked to access when an attendant is not on duty. ()
- 09. Scavenging And Salvaging.** Scavenging by the public at a facility is prohibited. Salvaging may be conducted in accordance with a written operations plan and only by the facility operator or an authorized agent.

()

10. Nuisance Control. The owner and operator shall control nuisances, including but not limited to:

()

a. Disease or Discomfort. Operations at any facility shall not provide sustenance to rodents or insects that cause human disease or discomfort. ()

b. Vector. Vector control procedures shall prevent or control vectors that may cause health hazards or nuisances. ()

c. Bird Hazards to Aircraft. No permittee may handle putrescible wastes in such a manner that may attract birds and increases the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft shall operate the facility in such a manner that birds are not a hazard to aircraft. ()

d. Odor. The facility shall be operated to control malodorous gases. ()

e. Litter. Effective measures shall be taken to minimize the loss of debris from the facility. Each operator shall collect windblown debris from the facility and properly dispose of the debris to prevent objectionable accumulations. ()

11. Restroom. A restroom shall be available or reasonably accessible at the site. ()

12. Open Burning. Open burning is prohibited at facilities except as authorized by these rules and IDAPA 16.01.01, "Rules for the Control of Air Pollution in Idaho". ()

a. No open burning shall be conducted during an air pollution episode, declared in accordance with IDAPA 16.01.01, "Rules for the Control of Air Pollution in Idaho". ()

b. No open burning shall be allowed two (2) years from the date the Director approves an economical and reasonable alternative to open burning under the authority of IDAPA 16.01.01, "Rules for the Control of Air Pollution in Idaho". ()

c. Open burning is authorized only if it is infrequent and the materials are agricultural wastes, silviculture wastes, land clearing debris, diseased trees, or debris from emergency cleanup operations, but shall not include garbage, dead animals, asphalt, petroleum products, paints, tires or other rubber products, plastics, paper (other than that necessary to start the fire), cardboard, treated wood, construction debris, metal, pathogenic wastes, hazardous wastes, or any substance (other than natural vegetation) that when burned releases toxic emissions, dense smoke or strong odors. ()

d. Open burning shall be conducted under the following conditions unless otherwise authorized by the Department or local fire authority with appropriate jurisdiction: ()

i. The open burning shall be supervised at all times by a person capable of extinguishing the fire, and the fire shall be extinguished before supervision terminates. ()

ii. The open burning shall not occur within fifty (50) feet of any structure. ()

iii. The pile for open burning shall not be larger than one hundred and fifty (150) cubic yards. ()

iv. Only one (1) pile at a time shall be burned, and each pile shall be extinguished before igniting another. ()

v. The owner or operator of the facility shall contact the Department and the local fire authority prior to conducting open burning to report its nature and location. ()

13. Storm Water Run-On/Run-Off Controls. The operations plan shall include sufficient storm water management provisions, which may incorporate a NPDES storm water pollution prevention plan, to minimize the spread and impact of contaminants from the facility to surface or ground water, or beyond the boundary of the facility. "Storm water" means any accumulation of water from natural precipitation, including snow melt. ()

036. GROUNDWATER MONITORING REQUIREMENTS.

01. Ground Water Monitoring. The owner or operator of any facility required under Section 011 to monitor ground water shall comply with the following requirements: ()

- a. Install and maintain ground water monitoring wells at locations approved by the Department. ()
- b. Within thirty (30) days of completion of each well, submit a copy of the geologic log and record of well construction to the Department. ()
- c. Monitor the ground water quarterly, unless otherwise authorized by the Department. Constituents to be monitored shall include Appendix I and Appendix II of 40 CFR Part 258 (1999) unless otherwise authorized by the Department. ()

02. Continued Ground Water Monitoring. Any facility required to monitor ground water at the time of closure shall continue the approved monitoring schedule for five (5) years following facility closure unless otherwise approved by the Department. The owner or operator may request that the Department review and approve a modified monitoring schedule. ()

037. FINANCIAL ASSURANCE REQUIREMENTS.

01. Financial Assurance Standards. ()

- a. The financial assurance requirements of this section do not apply to State or Federal governmental agencies whose debts and liabilities are the debts and liabilities of a State or the United States. ()
- b. The owner or operator shall obtain adequate financial assurance to cover the current estimated costs of hiring a third party to close the largest area of the facility and to conduct post-closure care for the facility. Financial assurance shall be one (1) or more of the mechanisms stated in Subsection 037.02. ()
- c. The owner or operator shall have current financial assurance estimates, updated every five (5) years, available for review upon request. ()

02. Mechanisms. The mechanisms used to demonstrate financial assurance are: ()

- a. Trust Fund, as per 40 CFR Section 258.74(a) (1997). ()
- b. Surety Bond Guaranteeing Payment or Performance, as per 40 CFR Section 258.74(b) (1997). ()
- c. Letter of Credit, as per 40 CFR Section 258.74(c) (1997). ()
- d. Insurance, as per 40 CFR Section 258.74(d) (1997). ()
- e. Corporate Financial Test, as per 40 CFR Section 258.74(e) (1998). ()
- f. Local Government Financial Test, as per 40 CFR Section 258.74(f) (1997). ()
- g. Corporate Guarantee, as per 40 CFR Section 258.74(g) (1998). ()
- h. Local Government Guarantee, as per 40 CFR Section 258.74(h) (1997). ()

03. Financial Assurance Variance. An owner or operator may submit a written request for a variance from the financial assurance requirements. The Department may approve the request on finding that financial assurance is not necessary for protection of human health and the environment. ()

038. CLOSURE REQUIREMENTS.

01. Closure Schedule. The owner or operator shall: ()

a. For a facility open to the public, provide public notification of the facility's closure by publishing a public notice in the local newspaper and posting signs at the facility's entrance. This notice shall be published and the signs posted less than ninety (90) days and greater than thirty (30) days prior to last receipt of waste. ()

b. Close the facility in accordance with an approved closure application within six (6) months of the last receipt of waste, unless otherwise approved by the Department. ()

02. Closure Standards. The owner and operator shall close the facility using the following standards: ()

a. Clean Site. All solid wastes shall be managed or removed to prevent potential impact to human health or the environment. ()

b. Access control. A gate or other device shall be installed to prevent public access after the last receipt of waste. ()

c. Erosion Control. Install appropriate measures to control erosion. ()

d. Drainage Controls. Install appropriate measures to control the run-on and runoff from a twenty-five (25) year, twenty-four (24) hour storm event and to provide for the diversion of other surface waters from the closed facility. ()

03. Certification Of Final Closure Standards. Following final closure, the owner or operator shall notify the department in writing that the facility was closed in accordance with the approved closure application. If closure of the facility is different from the approved closure application, the owner or operator shall submit documents to the Department within forty-five (45) days of closure. Documents may include as-built plans, showing the final conditions of the facility. ()

039. -- 049. (RESERVED).

050. SPECIFIC CRITERIA FOR PROCESSING FACILITIES.

As directed in Sections 009, 010, and 011, processing facilities shall comply with the following additional requirements: ()

01. Odor Management Plan. No processing facility shall operate without developing and maintaining an odor management plan that includes: ()

a. Specific operating criteria for oxygen, moisture and temperature levels appropriate for the wastes to be processed and processing technologies to be employed; ()

b. Methods used to maintain the specific operating criteria; and ()

c. Monitoring strategy that includes the frequency and parameters for monitoring the specific operating criteria. ()

02. Application Requirements For All Processing Facilities. The owner or operator shall submit an odor management plan as an application for approval under Section 031. The Department will determine if the odor management plan appears adequate to minimize nuisance odors. An odor management plan determined to be

sufficient by the Department shall be binding on an owner or operator until modified. ()

03. Additional Requirements For PCS. Owners and operators of PCS processing facilities shall comply with the following requirements: ()

a. Design and Construction Requirements. The facility design shall address the need for and include: ()

i. Leachate Controls. A leachate collection and control system to prevent discharges of contaminants to surface and ground water. ()

ii. Liner. A liner designed to minimize contaminant releases to the ground water. The liner design shall account for the types of wastes handled and the potential for migration of liquid and gaseous contaminants to ground water. ()

iii. An owner or operator may submit a written request for a variance from the leachate control and liner requirements. The Department may approve the request on finding that the requirement is not necessary for protection of human health and the environment. ()

b. Operating Requirements. ()

i. Develop and maintain a sampling plan that describes the methods and frequency to be used for the sampling and analysis of wastes when received, during processing, and on final testing of processed material; ()

ii. Maintain and operate leachate and air emission control systems consistent with the approved design application; and ()

c. Application Requirements for PCS Processing Facilities. The owner or operator of a PCS processing facility shall submit the following information with the design application for approval under Section 031: ()

i. A hydrogeologic evaluation, including the potential for migration of contaminants to ground or surface water; ()

ii. A detailed description of treatment methods to be used; and ()

iii. Design plans for the leachate control system, and liners as may be required in this Section. ()

04. Documentation Requirements. Maintain documentation of compliance with the odor management plan including an operational log of the methods used to maintain the operating criteria and sampling results. ()

051. -- 052. (RESERVED).

053. WASTE HANDLING OPERATIONS AT INCINERATORS AND TRANSFER STATIONS.

Additional Requirements for Waste Handling Operations. As specified in Section 010, or Section 011, the owner or operator of a transfer station or an incineration facility shall comply with the following additional requirements: ()

01. Design Requirements. ()

a. Any new facility, or within two (2) years after July 1, 2000 for an existing facility, shall have a tipping floor. A tipping floor is an area at a facility that receives and contains all uncontained waste materials. The tipping floor shall be constructed of impermeable and durable material and designed to contain, collect, and convey any liquids to a storage or leachate management system. ()

b. Any new facility, or within two (2) years after July 1, 2000 for an existing facility, shall have a

storage or leachate management system. ()

02. Operating Requirements: ()

a. The tipping floor shall be managed to control odors, insects, and rodents; ()

b. The operating plan shall include cleaning procedures and waste residency times to maintain sanitary conditions on the surface of the tipping floor; and ()

c. The owner or operator shall maintain and operate storage or leachate systems consistent with the approved design application. ()

03. Application Requirements. The owner or operator shall submit the following information with the design application for approval under Section 031: ()

a. Tipping floor design; and ()

b. Storage or leachate management system design. ()

054. (RESERVED).

055. NON-MUNICIPAL SOLID WASTE LANDFILL.

01. Additional Requirements For NMSWLF Facilities. As specified in Section 009, Section 010, or Section 011, non-municipal solid waste landfill facilities shall comply with the following additional requirements: ()

a. Siting Requirements: A facility shall not be located in wetlands, except as provided in 40 CFR 258.12, and shall comply with the provisions of 40 CFR 258.15. ()

b. Design and Construction Requirements: The owner or operator of a NMSWLF shall comply with the following design and construction requirements: ()

i. Leachate Controls. A leachate collection and control system to prevent discharges of contaminants to surface and ground water. ()

ii. Liner. A liner designed to minimize contaminant releases to the ground water. The liner design shall account for the types of wastes handled and the potential for migration of liquid and gaseous contaminants to ground water. ()

iii. Landfill Emission Controls. Appropriate toxic and flammable gas monitoring devices are required where the location, geophysical condition, and waste characteristics indicate that there is a reasonable probability that the facility will generate toxic and flammable gas: exceeding twenty-five (25) percent of the lower explosive limit for gases in facility structures (excluding gas control or gas recovery system components); exceeding the lower explosive limit at the property boundary; or otherwise presenting a potential threat to public health or the environment. ()

iv. An owner or operator may submit a written request for a variance from the leachate controls, liner, and landfill emission control requirements. The Department may approve the request on finding that the requirement is not necessary for protection of human health and the environment. ()

c. Operating Requirements: The owner or operator of a NMSWLF shall comply with the following operating requirements: ()

i. All waste shall be compacted and placed in locations consistent with the approved operations application or Tier I notice; ()

ii. Provide for storage of waste during periods when the NMSWLF is inaccessible; ()

iii. Apply a six (6) inch compacted soil cover layer on exposed waste as necessary to prevent nuisance and vector conditions at periods consistent with the approved operations application or Tier I notice. An applicant may request that the Department approve an alternate cover that addresses vectors, litter, fire, odor, and scavenging concerns; ()

iv. An interim cover layer of twelve (12) inches of compacted soil, shall be placed between lifts to provide erosion control and structural stability. An applicant may request that the Department approve an alternate cover that addresses erosion, and stability for subsequent lifts; ()

v. Maintain and operate leachate and air emission control systems consistent with the approved design application; and ()

vi. Preserve existing vegetation where attainable. ()

d. Closure Requirements. ()

i. Final Cover. Within seven (7) days of last receipt of waste a cover layer shall be applied to prevent nuisances and vector conditions. Within one hundred and twenty (120) days of last receipt of waste, a final cover layer of eighteen (18) inches of compacted soil with an approved in-place permeability designed to minimize infiltration, or its functional equivalent, and, a six (6) inch soil layer that minimizes erosion and sustains plant growth shall be constructed. ()

ii. Facility Stabilization. All disturbed portions of the facility shall be stabilized prior to closure. Stabilization practices may include but are not limited to: establishment of vegetation, mulching, geotextiles, and sod stabilization. ()

iii. Slope Stability. Finished grade shall be at a minimum of two (2) percent and a maximum of thirty-three percent (33%) slope on the final surface of the completed fill area, after settlement. ()

iv. Drainage Control. The completed landfill shall be graded to prevent surface water ponding and erosion, and to conform to the local topography. ()

e. Deed Notation. ()

i. After completion and certification of closure of a NMSWLF, the owner or operator of the facility shall record a notation on the property deed that permanently notifies any potential purchaser of the property that the land has been used as a landfill facility and its future use may be restricted in accordance with a post-closure care plan. A copy of the notated deed shall be sent to the Department after recording with the county clerk. ()

ii. The owner may request permission from the Department to remove the notation from the deed if all wastes are removed from the facility. ()

iii. Federal agencies with responsibility for management of landfills on federal property shall make a notation in the federal property records for the affected property. If the subject property is ever sold or transferred by the federal government, a notation on the deed or patent shall be made. ()

f. Post-Closure Care Requirements. ()

i. Following closure of a NMSWLF, the owner or operator shall conduct post-closure care in accordance with the approved post-closure plan. The post-closure plan shall be maintained and available for review on request by the Department. ()

ii. Post-closure care for the NMSWLF shall be conducted for a minimum of five (5) years unless the Department extends the period, not to exceed thirty (30) years, as necessary to protect human health and the environment. ()

iii. Post-Closure Standards and Inspection. Post-closure use or operation of the site shall not disturb any final cover, liner or other component of the containment system in a manner that will increase the potential to threaten human health or the environment. ()

iv. The post-closure care plan shall contain: ()

(1) The name and address of an agent authorized to accept communications or service during the post-closure period. The name may be changed during the post-closure period by providing the Department with twenty (20) days advance written notice of the change; ()

(2) Provisions to maintain the integrity and effectiveness of the final cover; ()

(3) Provisions to continue to maintain and operate the systems required in the operating plan, including: run-on/run-off control systems, leachate collection systems, groundwater monitoring systems, and gas monitoring systems; ()

(4) Provisions to maintain appropriate security of the closed facility; ()

(5) Provisions for routine facility inspections by the owner or operator to insure compliance with the post-closure care plan; and ()

(6) Description of the planned use(s) of the property during the post-closure care period. ()

02. Application Content, Review, And Approval Requirements For NMSWLF Facilities. As specified in Section 009, Section 010, or Section 011, an owner or operator of a NMSWLF shall comply with the following additional facility specific application, review and approval requirements: ()

a. Siting Application. The owner or operator shall provide documentation demonstrating compliance with the siting requirements specified in Subsection 055.01.a. ()

b. Design Application. The owner or operator shall provide the following additional information for design approval: ()

i. Design plans shall address the need for and include as required a leachate control system, liner, and emission control systems in Subsection 055.01.b. ()

ii. A facility map illustrating: ()

(1) Surface water and erosion control systems; ()

(2) Proposed fill area, including the location of waste disposal trenches or cells, noting the locations of trenches used for separated wastes such as animal carcasses, tree trunks, stumps, bulky wastes, car bodies, asbestos, and petroleum contaminated soils; ()

(3) Location of borrow areas; ()

(4) Design elevation grade of final cover; ()

(5) Soil and water table test boring holes, wells, or excavations; ()

(6) Proposed receiving, storage, and processing areas; ()

(7) Proposed trench layout and development; and ()

(8) Contour lines at five (5) foot intervals within the operating area and ten (10) foot intervals to the facility boundary. ()

c. Operating Application. The operating plan required in Section 010, Section 011, or the Tier I notice required in Section 009, shall identify detailed methods used for maintaining compliance with each applicable operating requirement of Subsection 055.01.c. including but not limited to the type, the method of compaction and the frequency of application of respective cover materials. ()

d. Post-closure Care Application. A post-closure care application shall contain a copy of the post-closure care plan. ()

056. -- 059. (RESERVED).

060. CORRECTIVE ACTION.

01. Corrective Action. When an owner or operator of a facility knows or should know that the facility has caused a significant increase of contaminants in any media above background level, the owner or operator shall complete corrective action within a reasonable time. Within forty-eight (48) hours of discovering the increase of contaminants the owner or operator shall notify the Department. ()

02. Corrective Action Objectives. Corrective action shall meet the following objectives: ()

a. Protect human health and the environment; ()

b. Attain clean up levels consistent with state standards or other levels determined by the Department; ()

c. Control the source(s) of releases so as to reduce or eliminate, to the maximum extent practicable, further release of constituents into the environment; and ()

d. Comply with applicable standards for the management of wastes. ()

03. Corrective Action Plan Review And Approval. ()

a. Within sixty (60) days after a owner or operator knows or should have known that corrective action is required, or after the Department notifies the owner or operator, the owner or operator shall submit a written corrective action plan to the Department for review and approval. The Department shall review the corrective action plan and make a completeness determination within thirty (30) days. The Department shall approve, deny, or approve with conditions the corrective action plan within sixty (60) days of a completeness determination. ()

b. A corrective action plan shall include: ()

i. A description of the source, nature, and extent of the contamination; ()

ii. A description of the measures to be employed to complete corrective action, with an analysis of the anticipated clean up levels to be achieved; ()

iii. Specific measures necessary to protect human health and the environment; and ()

iv. A schedule to implement and complete the corrective action measures. ()

c. An owner or operator may begin corrective action prior to Department approval of a corrective action plan, but shall provide the Department notice of the actions that will occur and shall comply with any conditions the Department imposes on the corrective action. ()

061. -- 993. (RESERVED).

994. COMMERCIAL SOLID WASTE SITING LICENSE FEE.

An application for a commercial solid waste siting license required by the Idaho Solid Waste Facilities Act shall be accompanied by a siting license fee in an amount established by these rules. The license fee shall not exceed seven

thousand five hundred dollars (\$7,500) and shall be submitted with the siting license application. ()

01. Commercial Solid Waste Siting License Fee Criteria. The commercial solid waste siting license fee required by the Idaho Solid Waste Facilities Act and these rules shall be based on the cost of the Department's review and the characteristics of the proposed commercial solid waste facility, including the projected site size, projected waste volume, and the hydrogeological and atmospheric characteristics surrounding the site. ()

02. Commercial Solid Waste Siting License Fee Scale. The commercial solid waste siting license fee required by the Idaho Solid Waste Facilities Act and these rules shall be determined using the table below. The fee determined using the table below may then be adjusted by the Department if necessary to reflect the cost of the Department's review, taking into account the hydrogeological and atmospheric characteristics surrounding the site.

COMMERCIAL SOLID WASTE SITING LICENSE FEE SCALE			
PROJECTED SOLID WASTE VOLUME			
Tons per day (TPD)			
Site Size	Up to 20 TPD	20 to 100 TPD	More than 100 TPD
5 acres or less	\$3,500	\$4,500	\$5,500
5 to 50 acres	\$4,500	\$5,500	\$6,500
more than 50 acres	\$5,500	\$6,500	\$7,500

()

03. Notification of Adjustment Of The Fee. Within thirty (30) days of receipt of the application and fee, the Department shall notify the applicant if the fee has been adjusted and the date by which any additional fee must be paid by the applicant. ()

04. Expansion or Enlargement Of A Commercial Solid Waste Facility. The expansion or enlargement of a commercial solid waste facility constitutes a new proposal for which a commercial solid waste siting license is required and for which a siting license fee must be paid. All commercial solid waste facilities not in operation on March 20, 1996 must submit a commercial solid waste license application and fee. ()

05. Commercial Solid Waste Siting License Fee Not Refundable. The commercial solid waste siting license fee required by the Idaho Solid Waste Facilities Act and by these rules shall not be refundable and may not be applied toward any subsequent application should the commercial solid waste siting license application be canceled, withdrawn or denied. ()

995. COMMERCIAL SOLID WASTE SITING LICENSE APPLICATION.

In addition to the contents of a Siting License Application as required in the Idaho Solid Waste Facilities Act, these rules require the applicant to include in the application the following items: ()

01. Location. A map indicating the location of the proposed commercial solid waste facility, ()

02. Copies Of Application. Ten (10) copies of the completed application, and ()

03. Application Format. A copy of the application in a format prepared for photocopying. ()

996. -- 998. (RESERVED).

999. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 9-342A, Idaho Code, and IDAPA 16.01.21, Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Division of Environmental Quality. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS

DOCKET NO. 16-0106-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapters 1 and 74, Title 39, Idaho Code. In this rulemaking, the Idaho Department of Health and Welfare, Division of Environmental Quality (DEQ) proposes to repeal the current rule in conjunction with the proposal of a replacement rule (Docket No. 16-0106-9701), as described in the descriptive summary below.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this proposed repeal and the proposed adoption of a new rule (Docket No. 16-0106-9701) will be held as a statewide, interactive video teleconference originating in Boise, Idaho on August 18, 1999 at 7:00 p.m. (6:00 p.m. PDT). A representative from DEQ will be at each site to facilitate the hearing. The allotted time for the hearing will be distributed evenly between the six sites. The interactive public hearing will enable the participants to listen to comments that are being made throughout the state, not just the comments that are made at their hearing site.

Hearing locations are:

J. R. Williams Bldg. (Hall of Mirrors)
East Conference Room
700 W. State
Boise, Idaho

College of Southern Idaho
Evergreen Bldg. Room C91
315 Falls Ave.
Twin Falls, Idaho

Idaho State University
Library Room B78
850 S. 9th
Pocatello, Idaho

Center for Higher Education
Room 314
1776 Science Center Dr.
Idaho Falls, Idaho

Work Force Training Center
Room 108
525 W. Clearwater Loop
Post Falls, Idaho

Lewis & Clark State College
Sam Glenn Bldg. Room 50
500 8th Ave.
Lewiston, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing. For arrangements, contact the undersigned at (208)373-0418.

DESCRIPTIVE SUMMARY: DEQ has recently completed negotiating a new set of proposed Solid Waste Management Rules and Standards and has published the proposal under Docket No. 16-0106-9701. Coinciding with the publication of the proposed new rules, DEQ is hereby proposing repeal of the current rules. The proposed actions have been scheduled so that both actions, once adopted by the Board of Health and Welfare and approved by the Legislature, will take effect simultaneously.

After consideration of public comments, DEQ intends to present the final proposal to the Board of Health and Welfare in November 1999 for adoption of a pending rule. The repeal is expected to be final and effective upon the conclusion of the 2000 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: The proposed repeal was not negotiated. However, text of the proposed replacement rule was negotiated. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 97-5, May 7, 1997, page 47.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at

www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS AND SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this rule, contact Barry Burnell at (208)373-0502 or bburnell@deq.state.id.us.

Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. All written comments must be received by the undersigned on or before August 25, 1999.

DATED this 23rd day of June, 1999.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
psaul@deq.state.id.us

THIS RULE IS BEING REPEALED IN ITS ENTIRETY.

**THIS RULE IS BEING REWRITTEN AND IS PUBLISHED
IN THIS BULLETIN UNDER DOCKET NO. 16-0108-9701
IMMEDIATELY PRECEDING THIS NOTICE.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS
DOCKET NO. 16-0108-9802
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Chapter 1, Title 39, Idaho Code and Chapter 21, Title 37, Idaho Code. Section 39-105(3)(e), Idaho Code, contains explicit authorization for the adoption and implementation of an operator certification program. In addition, this rulemaking is required by Section 1419(b) of the federal Safe Drinking Water Act (42 U.S.C. Section 300g-8(b)). Failure to comply with this provision will result in losing 20% of the state's annual Drinking Water Revolving Loan Fund capitalization grant from the federal government.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled.

Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency.

Written requests for a hearing must be received by the undersigned on or before August 18, 1999. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This rulemaking has been undertaken to adopt and implement a public drinking water system operator certification program. The proposal will add a requirement that operators of community and nontransient noncommunity public drinking water systems be certified. The basis for the proposed rule is nine baseline standards: 1) authorization, 2) system and operator classification, 3) operator qualifications, 4) enforcement, 5) certification renewal, 6) resources to implement the program, 7) re-certification, 8) stakeholder involvement, and 9) program review. These are standards specified by guidance from the U.S. Environmental Protection Agency.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Department intends to present the final proposal to the Board of Health and Welfare in November 1999 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2000 session of the Idaho Legislature.

FEE SUMMARY: The proposed rule imposes fees for application, examination, and annual renewal. The fees will be used to help fund the program. Section 39-119, Idaho Code, authorizes imposition of the fees.

NEGOTIATED RULEMAKING: The text of the rule is based on a consensus recommendation resulting from the negotiated rulemaking process. The negotiation was open to the public. Participants in the negotiation included water purveyors, government agencies, and industry associations. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 98-12, December 2, 1998, page 40.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rulemaking, contact Alan Standford at (208)373-0502 or astanfor@deq.state.id.us.

SUBMISSION OF WRITTEN COMMENTS: Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. All written comments must be received by the undersigned on or before August 25, 1999.

DATED this 23rd day of June, 1999.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255
Fax No. (208)373-0481
psaul@deq.state.id.us

THE FOLLOWING IS TEXT OF DOCKET NO. 16-0108-9802

003. DEFINITIONS.

01. ABC. The abbreviation for "Association of Boards of Certification for Operating Personnel," an international organization representing water utility and pollution control certification boards. ()

042. Action Level. The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (12-10-92)

03. Administrator. The Administrator of the United States Environmental Protection Agency. ()

024. Annual Samples. Samples that are required once per calendar year. (12-10-92)

05. Available. Based on system size, complexity, and source water quality, a certified operator must be on site or able to be contacted as needed to initiate the appropriate action in a timely manner. ()

036. Average Daily Demand. The volume of water used by a system on an average day based on a one (1) year period. (12-10-92)

047. Backflow. The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)

058. Board. The Idaho State Board of Health and Welfare. (12-10-92)

062. Capacity. The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: (6-1-99)T

a. Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Certification and training of the operator(s) is required, as appropriate, for the system size and complexity. (6-1-99)T

b. Financial capacity means the financial resources of the water system, including an appropriate budget, rate structure, cash reserves sufficient for future needs and emergency situations, and adequate fiscal controls. (6-1-99)T

c. Managerial capacity means that the management structure of the water system embodies the aspects of water treatment operations, including, but not limited to; (6-1-99)T

- i. Short and long range planning; (6-1-99)T
- ii. Personnel management; (6-1-99)T
- iii. Fiduciary responsibility; (6-1-99)T
- iv. Emergency response; (6-1-99)T
- v. Customer responsiveness; (6-1-99)T
- vi. Source water protection; (6-1-99)T
- vii. Administrative functions such as billing and consumer awareness; and (6-1-99)T
- viii. Ability to meet the intent of the federal Safe Drinking Water Act. (6-1-99)T

10. Certificate. Documentation of competency issued by the Director stating that the person (to be certified) has met requirements for a specific classification of the certification program. ()

0711. Community Water System. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (12-10-92)

0812. Compositing Of Samples. The mixing of up to five (5) samples by the laboratory. (~~12-10-92~~)()

0913. Confirmation Sample. A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (12-10-92)

104. Connection. Each structure, facility, or single family residence which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (10-1-93)

115. Consumer. Any person served by a public water system. (12-10-92)

126. Contaminant. Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)

17. Continuing Education Unit (CEU). An alternate unit (to semester or quarter systems) of formal credit assignment to post-secondary training activities, which is based upon regionally or nationally established and recognized education criteria. ()

138. Cross Connection. Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices which, or because of which "backflow" can or may occur. (10-1-93)

149. Department. The Idaho Department of Health and Welfare. (12-10-92)

1520. Director. The Director of the Department of Health and Welfare or his designee. (12-10-92)

1621. Disinfection. Introduction of chlorine or other agent or process approved by the Department, in

sufficient concentrations, followed by adequate contact time so as to kill or inactivate pathogenic and indicator organisms. (12-10-92)

22. Distribution System. Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s) and/or treatment facility(ies) to the consumer. ()

~~17~~**23. Drinking Water System.** All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)

~~18~~**24. DWIMS.** Idaho Department of Health and Welfare Drinking Water Information Management System. (10-1-93)

~~19~~**25. Exemption.** A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

206. Fee Assessment. A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

~~21~~**7. Groundwater System.** A public water system which is supplied exclusively by a ground water source or sources. (12-10-92)

~~22~~**8. Health Hazards.** Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. (10-1-93)

~~23~~**9. Inorganic.** Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

30. Laboratory Certification Reciprocity. Acceptance of a laboratory certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. ()

~~24~~**31. Log.** Logarithm to the base ten (10). (12-10-92)

~~25~~**32. Maximum Daily Consumption Rate.** The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest on record. (12-10-92)

~~26~~**33. Maximum Hourly Demand.** The greatest volume of water used in any hour during a one (1) year period. (12-10-92)

~~27~~**34. Method Detection Limit (MDL).** The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

~~28~~**35. New System.** Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (6-1-99)T

~~29~~**36. Noncommunity Water System.** A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (12-10-92)()

307. Nontransient Noncommunity Water System. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year.

(12-10-92)

348. Nuclear Facility. Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)

329. Operating Certificate. A document certifying that a public drinking water system has paid its annual fee assessment. (10-1-93)

40. Operator Certifying Entity. An organization that contracts with the Department to provide public drinking water operator certification services. ()

41. Operating Experience. The number of years spent at a drinking water system in performance of duties. ()

42. Operating Shift. That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. ()

343. Operator/Owner/Purveyor Of Water/Supplier Of Water. The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. (6-1-99)()

44 Operator Reciprocity. Means on a case by case basis the acceptance of certificates issued by other certification programs, which satisfy the state of Idaho requirements for operator certification. ()

345. Peak Hourly Flow. The highest hourly flow during any day. (12-10-92)

3546. Person. A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

3647. Pesticides. Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algacides. (12-10-92)

3748. Public Notice. The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

3849. Public Drinking Water System.

a. In General. A system for the provision to the public of piped water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public drinking water system is either a "community water system" or a "noncommunity water system". (12-10-92)()

b. Connections. ()

i. In General. For purposes of Subsection 003.49.a., a connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection, if: ()

(1) The water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses); ()

(2) The Director determines that alternative water to achieve the equivalent level of public health

protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or ()

(3) The Director determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations. ()

ii. Irrigation Districts. An irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use shall not be considered to be a public drinking water system if the system or the residential or similar users of the system comply with Subsections 003.49.b.i.(2) and 003.49.b.i.(3). ()

c. Transition Period. A supplier of water that would be a public drinking water system only as a result of modifications made to Subsection 003.49 by the Safe Drinking Water Act Amendments of 1996 shall not be considered a public drinking water system for purposes of the Safe Drinking Water Act until the date that is two (2) years after the date of enactment of the Safe Drinking Water Act Amendments of 1996. If a supplier of water does not serve fifteen (15) service connections (as defined in Subsections 003.49.a. and 003.49.b.) or twenty-five (25) people at any time after the conclusion of the two (2) year period, the supplier of water shall not be considered a public drinking water system. ()

50. Public Water System/Water System/System. Means "public drinking water system". ()

~~**3951. Reciprocity.** Acceptance of a certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. A system by which certificates issued by any other certification program are recognized as valid and equal to Idaho's Certification Program provision. (10-1-93)()~~

~~**4052. Repeat Compliance Period.** Any subsequent compliance period after the initial compliance period. (12-10-92)~~

53. Responsible Charge (RC). Responsible Charge means, active, daily on-site and/or on-call responsibility for the performance of operations or active, on-going, on-site and on-call direction of employees and assistants. ()

~~**4154. Sampling Point.** The location in a public water system from which a sample is drawn. (12-10-92)~~

~~**4255. Sanitary Defects.** Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)~~

~~**4356. Spring.** A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)~~

~~**4457. Surface Water System.** A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. (12-10-92)~~

~~**45. System Operator.** The person who is employed, retained, or appointed to conduct the tasks associated with day to day operation and maintenance of a public drinking water system, including, but not limited to, repair and maintenance of equipment, adjustment of flow rates and storage quantities, reading of meters, and collection of regulatory monitoring samples. (6-1-99)F~~

~~**4658. Transient Noncommunity Water System.** A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (10-1-93)~~

59. Treatment Facility. Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may

be considered as a function of a distribution system. ()

4760. Turbidity. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

4861. Unregulated Contaminant. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

4962. Variance. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deterrent does not cause an unreasonable risk to public health. (12-10-92)

63. Very Small Public Drinking Water System. A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). ()

5064. Volatile Organic Chemicals (VOCs). VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

5165. Vulnerability Assessment. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

5266. Waiver. (12-10-92)

a. For the purposes of these rules, except Sections 550 through 552, "waiver" means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (10-1-93)

b. For purposes of Sections 550 through 552, "waiver" means a dismissal of any requirement of compliance. (12-10-92)

c. For the purposes of Section 010, "waiver" means the deferral of a fee assessment for a public drinking water system. (10-1-93)

67. Water System Operator. The person who is employed, retained, or appointed to conduct the tasks associated with day to day operation and maintenance of a public drinking water system in order to safeguard the public health and environment. ()

(BREAK IN CONTINUITY OF SECTIONS)

~~553. -- 899.~~ **(RESERVED) CLASSIFICATION OF WATER SYSTEMS.**

01. Classification Requirement. All community and nontransient noncommunity public drinking water systems will be classified based on indicators of potential health risks. ()

a. Classification of systems will be completed for every community and nontransient noncommunity public drinking water system using rating forms developed in accordance with the criteria in Subsection 553.02. ()

b. System classifications will be reviewed at five (5) year intervals and revised to reflect changed conditions. ()

02. Classification Criteria. Community and nontransient noncommunity public drinking water and distribution systems shall be classified under a system that uses the following criteria: ()

a. Complexity, size, source water for treatment facilities, (as determined by the guidelines established by the operator certifying entity). ()

b. Complexity and size of distribution systems. ()

c. Other criteria deemed necessary to completely classify systems. ()

554. CERTIFICATION OF WATER SYSTEM OPERATORS.

01. System Operator Certification Requirement. Owners of all community and nontransient noncommunity water systems must place the direct supervision of their drinking water system, including each treatment facility and/or distribution system, under the responsible charge of an operator holding a valid certification equal to or greater than the classification of the drinking water system and/or distribution system. ()

02. Operator Certification Requirement. Operators in responsible charge or equivalent of community and nontransient noncommunity public drinking water systems in Idaho, and who make process control/system integrity decisions about water quality or quantity that affect public health, shall hold a valid certification equal to or greater than the classification of their water system, including each treatment facility, where present, as determined by the Department. ()

a. A designated certified public drinking water system operator must be available for each operating shift. ()

b. All community and non-transient community public drinking water systems addressed in these rules shall be in compliance with these rules within two (2) years of April 15, 2000. ()

03. Qualifications For Certification. To qualify for a certificate an applicant must meet requirements of education, experience and examination as described in Section 556. Applicants may also receive certification through reciprocity upon evaluation of his or her qualifications and comparison of Idaho certification rules to those of another state on a case-by-case basis. ()

04. Administration Of The Certification Program. Administration of all aspects of the drinking water system operator certification program in Idaho shall be the responsibility of the Department. All administrative activities except enforcement may be contracted to an operator certifying entity. ()

05. Contractor Activities. All administrative activities contracted to an operator certifying entity will be carried out in accordance with these rules. ()

555. GRANDPARENTING.

01. Grandparenting Certificate. A grandparenting certificate may only be issued to an existing operator in responsible charge of an existing public drinking water system. The grandparenting certificate will be site specific and non-transferable and can only be issued to an operator of a system that has demonstrated their competency to the director and which, because of state law changes to meet these guidelines, must have a certified operator for the first time. ()

02. Application Limitations. The system must apply for grandparenting within (2) two years of April 15, 2000. ()

03. Certification Limitations. Upon receiving a grandparenting certificate the operator shall be required to meet renewal requirements including but not limited to continuing education and renewal fee

requirements. ()

04. Plant Classification Limitations. If the plant classification of the system changes to a higher classification then the grandparenting certification is no longer valid. ()

05. Revocation. A grandparenting certification may be suspended, reduced or revoked by the Director if the system remains in non-compliance for a period of time or in the opinion of the Director the operator is not performing their duties in a satisfactory way. ()

06. One System Limitation. An operator who is the operator in responsible charge of more than one (1) system shall not be grandparented. ()

556. REQUIREMENTS FOR CERTIFICATION.

01. Employment Requirement. Except for OIT Classification, applicants for certification must be currently employed or working in the drinking water field. ()

02. Examination Requirement. Applicants must pass a written examination with a score of seventy percent (70%) or better. The examination will reflect different levels of knowledge, ability and judgement required for the established certification classes. Examinations will be administered in accordance with established examination procedures. ()

03. Education And Experience Requirements For Public Drinking Water Operators. ()

a. To qualify for an Operator-In -Training Certificate, an operator must have a high school diploma or GED and pass an Operator-In-Training exam. After passing an Operator-In-Training exam, a "one (1) time" non-renewable certificate of "Operator-In-Training" will be issued. This certificate will be valid for three (3) years only. After working one (1) year in the field and with no further testing required, the Operator-In-Training will be issued a Class I Certificate upon proof of twelve (12) months of operating experience in a Class I or higher water system and treatment facility. ()

b. To qualify for a Very Small Public Drinking Water System certificate an operator must have a high school diploma or GED and six (6) months of acceptable experience operating a very small water system or a higher system. ()

c. To qualify for a Class I certificate an operator must have a high school diploma or GED and one (1) year of acceptable operating experience of a Class I or higher system and/or treatment facility. ()

d. To qualify for a Class II certificate an operator must have a high school diploma or GED and three (3) years of acceptable operating experience of a Class I or higher system and/or treatment facility. ()

e. To qualify for a Class III certificate an operator must have a high school diploma or GED and two (2) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class II or higher system and/or treatment facility, including two (2) years of responsible charge. ()

f. To qualify for a Class IV certificate an operator must have a high school diploma or GED; and four (4) years of post high school education in the environmental control field, engineering or related science; and four (4) years of acceptable operating experience of a Class III or higher system and/or treatment facility, including two (2) years of responsible charge. ()

04. Substituting Education For Experience. Applicants may substitute education for operating and responsible charge experience as specified below: ()

a. For Very Small Water System and Class I, no substitution for operating experience shall be permitted. ()

b. For Class II, a maximum of one and one-half (1 ½) years of post high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1 ½) years of operating experience. ()

c. For Class III and IV, a maximum of two (2) years of post high school education in the environmental control field, engineering or related science may be substituted for two (2) years of operating experience; however the applicant must still have one (1) year of responsible charge experience. ()

d. Education applied to operating experience shall not also be applied to education requirement. ()

e. One (1) year of education above the high school level may be substituted for one (1) year experience, up to maximum of fifty percent (50%) of required operating or responsible charge experience. ()

05. Substituting Experience For Education. Where applicable, operating and responsible charge experience may be substituted for education as specified below: ()

a. One (1) year of operating experience may be substituted for two (2) years of grade school with no limitation or one (1) year high school with no limitation. ()

b. For Class III and IV, additional responsible charge experience (that exceeding the two (2) year class requirements) may be substituted for post high school education on a two (2) for one (1) basis: two (2) years additional responsible charge = one (1) post high school education. ()

c. Related experience may be substituted for experience up to one-half (½) of the operating experience requirement for Class II, III and IV. Experience that may be substituted includes but is not limited to the following: ()

i. Experience as an environmental or operations consultant; ()

ii. Experience in an environmental or engineering branch of federal, state, county, or local government; ()

iii. Experience as a wastewater collection system operator; ()

iv. Experience as a wastewater treatment plant operator; ()

v. Experience as a water distribution system operator and/or manager; ()

vi. Experience as a water treatment plant operator; or ()

vii. Experience in waste treatment operation and maintenance. ()

06. Equivalency Policy. Substitutions for education or experience requirements needed to meet minimum requirements for certification will be evaluated upon the following equivalency policies: ()

i. High School – High School diploma = GED or other equivalent = twelve (12) years. ()

ii. College – Thirty-five (35) credits = one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields). ()

iii. Continuing Education Units (CEU) for specialized operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours = one (1) CEU; forty-five (45) CEUs = one (1) year of college. ()

557. RECIPROCITY.

The Director may waive examination requirements for applicants holding certificates or licenses issued by other

States which have equivalent certification requirements. A certificate of appropriate class will be issued. ()

558. CERTIFICATES AND RENEWALS.

01. Certificate Issuance. Upon satisfying the requirements of Section 556, a certificate will be issued to the applicant designating his level of operating competency. ()

02. Certificate Renewal. Certificates shall be subject to payment of annual renewal fees and professional growth requirements. ()

03. Attaining Higher Certification Level. Certified Water System Operators who desire to become certified in a higher grade must satisfactorily complete the higher-grade requirements before a new certificate will be issued. ()

04. Invalidation Of Certificates. Certificates for which annual renewal card applications are not received within sixty (60) days after the expiration date or which do not satisfy the professional growth requirement of Subsection 558.09 will be invalid. ()

05. Renewal Of Invalidated Certificates. Water System Operators whose certificates are invalidated may be renewed up to two (2) years provided appropriate proof of competency is presented and reinstatement fees are paid. ()

06. Recertification. Water System Operators who have failed to renew or qualify for renewal of certificate(s) beyond two (2) years must recertify and provide appropriate proof of competency. ()

07. Certificate Issuance. Appropriate classification will be issued to public drinking water system operators, who on the effective date of a mandatory program hold certificates of competency attained by examination under the voluntary program. ()

08. Certificate Signatures. Certificates shall be signed by the Chairman and Secretary of the operator certifying entity. ()

09. Professional Growth Requirement. Renewal of a certificate shall be based on demonstrations of continued professional growth in the field. A public drinking water system operator shall submit satisfactory evidence of completion of approved training of a minimum point six (0.6) CEUs as a condition for renewal of the certificate. The Water System Operator shall complete the required point six (0.6) CEUs after March 1 of the year preceding the renewal year. It is the obligation of the Water System Operator to present proof of CEUs along with the renewal fee. A Water System Operator holding more than one (1) certificate issued under these rules need only complete the training required to satisfy renewal requirements for one (1) of these certificates. ()

10. Grandparented Certificate Renewal. In the first annual certification renewal cycle, grandparented operators shall complete and show documentation of completion of training that includes all information covered by the initial certification exam. ()

559. CONTRACTING FOR SERVICES.

Water systems that do not have a certified public drinking water system operator may contract with a certified public drinking water system operator or with a public drinking water system having certified operators to provide supervision. The contracted public drinking water system operator or contracted entity shall be certified at the grade equal to or greater than the classification of the plant or system. ()

01. Supervision. For supervision required in this rule to be sufficient, the contracted certified water system operator or contracted entity shall: ()

a. Be available on twenty-four (24) hour call and able to respond onsite upon request. ()

b. Report the results of analyses or measurements that indicate maximum contaminant levels have been exceeded or that minimum treatment levels are not maintained and report the results of these analyses to the

operator, owner, purveyor or supplier of water. ()

c. Recommend corrective action when the results of analyses or measurements indicate maximum contaminant levels have been exceeded or minimum treatment levels are not maintained. ()

d. Recommend that all elements of routine operation and maintenance of the water system are completed in accordance with accepted public health practice and these rules. ()

02. Proof Of Contract. Proof of the contract shall be submitted to the Department. ()

560. PENALTIES.

The Director may assess penalties in accordance with the following provisions: ()

01. General Authority. Violations of these rules shall be punishable as provided in Title 39, Chapter 1, Idaho Code. ()

02. Falsification And Forgery. Every person who knowingly procures or offers any false or forged instrument to be filed, registered or recorded in any public office within this state, which instrument, if genuine, might be filed or registered, or recorded under any law of this state, or of the United States, is guilty of a felony. Section 18-3203, Idaho Code. ()

03. Civil Penalties. Pursuant to Section 39-108, Idaho Code, any person who violates these rules shall be subject to a civil penalty. Each and every violation is a separate and distinct offense and for continuing violations, each day's violation is separate and distinct. ()

561. SUSPENSION, REDUCTION OR REVOCATION.

01. Suspend, Reduce Or Revoke An Operator's Certificate. The Director may suspend, reduce or revoke the certificate of an Operator following a hearing before the Board when the following conditions are found: ()

a. It is found that the Water System Operator has engaged in misconduct such as fraud, falsification of the application, or falsification of operating records. ()

b. The Water System Operator is found to be grossly negligent in the performance of his duties. ()

c. It is found that the Water System Operator has failed to use reasonable care and judgement in the performance of his duties or the application of his knowledge and ability in the performance of his duties is unsatisfactory. ()

02. Appeals. In the event of a decision to suspend, reduce or revoke a certificate under the conditions set forth in this section, the holder of that certificate may appeal the decision as provided for in Sections 39-107(6) and 39-107(7), Idaho Code. and the rules of the Department of Health and Welfare, IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". ()

562. ADVISORY GROUP.

Stakeholder Involvement. Ongoing stakeholder involvement will be provided through the existing drinking water advisory committee at the Department. ()

563. -- 899. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS
DOCKET NO. 16-0108-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Section 9-342A(8), Idaho Code, Title 39, Chapter 1, Idaho Code and Title 37, Chapter 21, Idaho Code. In addition, states such as Idaho which have primacy for enforcement of the Safe Drinking Water Act are required by 40 CFR 142.10(a) to adopt, within two years of promulgation, national primary drinking water regulations that are no less stringent than those in effect under 40 CFR Part 141.

PUBLIC HEARING SCHEDULE: No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for a hearing must be received by the undersigned on or before August 18, 1999. If no such written request is received, a public hearing will not be held.

DESCRIPTIVE SUMMARY: This proposed rule incorporates by reference the following federal regulations:

The Interim Enhanced Surface Water Treatment Rule, 40 CFR Part 141, Subpart P, applies to public water systems which use a surface water source and provide drinking water to 10,000 or more customers. It establishes turbidity standards more stringent than those currently in effect, and requires monitoring of individual filters in treatment plants. Under certain conditions, it requires the development of a disinfection profile of the treatment plant to be used as a baseline when considering future changes in disinfection practices.

The Disinfectants and Disinfection Byproducts Rule, 40 CFR Part 141, Subpart L, sets limits on disinfection byproduct concentrations in finished drinking water and prescribes treatment techniques for water systems that exceed those limits. The rule also sets a ceiling on the concentration of disinfectants in drinking water. These requirements apply to most water systems that practice disinfection.

The Consumer Confidence Rule (CCR), 40 CFR Part 141, Subpart O, requires all community water systems to provide an annual water quality report to their customers. These reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. The first annual report is due October 19, 1999.

The proposed rule also includes some new definitions and rule text supporting the incorporation by reference of 40 CFR Parts 141 and 142.

Finally, this proposed rule implements 1998 amendments to the public records statute by updating the requirements of Section 997, Confidentiality of Records.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed.

After consideration of public comments, the Department intends to present the final proposal to the Board of Health and Welfare in November 1999 for adoption of a pending rule. The rule is expected to be final and effective upon the conclusion of the 2000 session of the Idaho Legislature.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted because the nature of this rulemaking does not lend itself to the negotiated rulemaking process. Federal law requires that the Department of Health and Welfare, Division of Environmental Quality (DEQ) adopt these rules to maintain primacy. The state must adopt rules that are no less stringent than the federal regulations. The Idaho Legislature requires DEQ to adopt rules that are no more stringent than the federal regulations. Therefore, unless the federal regulations specifically allow the state a degree of latitude in writing its own regulations, there is little or no room for negotiation. The three primary drinking water regulations involved in this rulemaking do not allow any such latitude by the state.

GENERAL INFORMATION: For more information about DEQ's programs and activities, visit DEQ's web site at

www.state.id.us/deq.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rulemaking with respect to the Interim Enhanced Surface Water Treatment Rule and Disinfectants and Disinfection Byproducts Rule, contact Tom John at (208)373-0502 or tjohn@deq.state.id.us.

For assistance on technical questions concerning the proposed rulemaking with respect to the Consumer Confidence Report Rule, contact Tom Aucutt at (208)373-0502 or taucutt@deq.state.id.us.

SUBMISSION OF WRITTEN COMMENTS: Anyone can submit written comments by mail, fax or e-mail at the address below regarding this proposed rule. All written comments must be received by the undersigned on or before August 25, 1999.

DATED this 23rd day of June, 1999.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
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THE FOLLOWING IS TEXT OF DOCKET NO. 16-0108-9901

002. INCORPORATION BY REFERENCE.

Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of the Code of Federal Regulations (CFR), Title 40, Parts 141 and 143, ~~amended~~ revised as of ~~June~~ July 29, 1999, shall constitute the full adoption by reference of that section or subsection. Including any notes and appendices therein, unless expressly provided otherwise in these rules. Any reference in these rules to procedures, methods, standards, or construction criteria contained in a published technical manual shall constitute the full adoption by reference of the part of the technical manual that pertains to the procedure, method, standard, or construction criterion as it appears in the manual. (7-1-97)(____)

01. Availability Of Specific Referenced Material. Copies of specific documents adopted by reference throughout these rules are available in the following locations: (12-10-92)

a. All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; and (7-1-97)

b. All documents herein incorporated by reference: Administrative Procedures Section, Idaho Department of Health and Welfare, 450 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0036, Telephone (208) 334-5552. (7-1-97)

c. Recommended Standards for Water Works: a committee report of the Great Lakes -- Upper Mississippi River Board of Department of Public Health and Environmental Health Managers, published by Health Education Services, P.O. Box 7823, Albany, New York, 1992, Telephone (518) 439-7286. (7-1-97)

d. Manual of Individual Water Supply Systems (EPA-430/9-74-007), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238. (12-10-92)

e. U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014. (12-10-92)

f. Rules of the Idaho Water Resources Board, IDAPA 37.03.09, "Well Construction Standards Rules," July 1993, available at the Idaho Department of Water Resources, 1301 North Orchard, P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) 327-7900. (7-1-97)

g. USEPA Guidance Manual, Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources, March 1991 Edition, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202) 782-3238. (12-10-92)

h. NSF 53 -- 1992, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (313) 769-8010. (10-1-93)

i. NSF 58 -- 1992, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (313) 769-8010. (10-1-93)

j. American Water Works Association (AWWA) Standards, Edition effective July 23, 1992, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. (7-1-97)

k. ANSI/NSF 60 -- 1988, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (313) 769-8010. (12-10-92)

l. ANSI/NSF 61 -- 1991, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, 3475 Plymouth Road, P.O. Box 1468, Ann Arbor, Michigan 48106, Telephone (313) 769-8010. (10-1-93)

02. Federal Regulations. 40 CFR 141.2 is herein incorporated by reference, except for the definition of the term "person". (10-1-93)

003. DEFINITIONS.

01. Action Level. The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake a public education program. (12-10-92)

02. Annual Samples. Samples that are required once per calendar year. (12-10-92)

03. Average Daily Demand. The volume of water used by a system on an average day based on a one (1) year period. (12-10-92)

04. Backflow. The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)

05. Board. The Idaho State Board of Health and Welfare. (12-10-92)

06. Capacity. The capabilities required of a public drinking water system in order to achieve and

maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: (6-1-99)T

a. Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Certification and training of the operator(s) is required, as appropriate, for the system size and complexity. (6-1-99)T

b. Financial capacity means the financial resources of the water system, including an appropriate budget, rate structure, cash reserves sufficient for future needs and emergency situations, and adequate fiscal controls. (6-1-99)T

c. Managerial capacity means that the management structure of the water system embodies the aspects of water treatment operations, including, but not limited to; (6-1-99)T

- i. Short and long range planning; (6-1-99)T
- ii. Personnel management; (6-1-99)T
- iii. Fiduciary responsibility; (6-1-99)T
- iv. Emergency response; (6-1-99)T
- v. Customer responsiveness; (6-1-99)T
- vi. Source water protection; (6-1-99)T
- vii. Administrative functions such as billing and consumer awareness; and (6-1-99)T
- viii. Ability to meet the intent of the federal Safe Drinking Water Act. (6-1-99)T

07. Community Water System. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (12-10-92)

08. Composite Correction Program (CCP). A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: ()

a. Comprehensive Performance Evaluation (CPE). A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. ()

b. Comprehensive Technical Assistance (CTA). The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. ()

089. Composting Of Samples. The mixing of up to five (5) samples by the laboratory. (12-10-92)

0910. Confirmation Sample. A sample of water taken from the same point in the system as the original

sample and at a time as soon as possible after the original sample was taken. (12-10-92)

101. Connection. Each structure, facility, or single family residence which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (10-1-93)

112. Consumer. Any person served by a public water system. (12-10-92)

13. Consumer Confidence Report (CCR). An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. ()

124. Contaminant. Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)

135. Cross Connection. Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices which, or because of which "backflow" can or may occur. (10-1-93)

146. Department. The Idaho Department of Health and Welfare. (12-10-92)

157. Director. The Director of the Department of Health and Welfare or his designee. (12-10-92)

168. Disinfection. Introduction of chlorine or other agent or process approved by the Department, in sufficient concentrations, followed by adequate contact time so as to kill or inactivate pathogenic and indicator organisms. (12-10-92)

19. Disinfection Profile. A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172. ()

1720. Drinking Water System. All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)

1821. DWIMS. Idaho Department of Health and Welfare Drinking Water Information Management System. (10-1-93)

22. Enhanced Coagulation. The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. ()

23. Enhanced Softening. The improved removal of disinfection byproduct precursors by precipitative softening. ()

1924. Exemption. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

205. Fee Assessment. A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

26. Filter Profile. A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. ()

27. GAC10. Granular activated carbon filter beds with an empty bed contact time of ten (10) minutes based on average daily flow and a carbon reactivation frequency of every one hundred eighty (180) days. ()

248. Groundwater System. A public water system which is supplied exclusively by a ground water source or sources. (12-10-92)

29. Ground Water Under The Direct Influence Of Surface Water. Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as Giardia lamblia or (for subpart H systems serving at least ten thousand (10,000) people only) Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence must be determined for individual sources in accordance with criteria established by the State. The State determination of direct influence may be based on site-specific measurements of water quality and/or documentation of well construction characteristics and geology with field evaluation. ()

30. Haloacetic Acids (Five) (HAA5). The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. ()

2231. Health Hazards. Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. (10-1-93)

232. Inorganic. Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

2433. Log. Logarithm to the base ten (10). (12-10-92)

2534. Maximum Daily Consumption Rate. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest on record. (12-10-92)

2635. Maximum Hourly Demand. The greatest volume of water used in any hour during a one (1) year period. (12-10-92)

36. Maximum Residual Disinfectant Level (MRDL). A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. ()

37. Maximum Residual Disinfectant Level Goal (MRDLG). The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. ()

- ~~2738.~~ **Method Detection Limit (MDL).** The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)
- ~~2839.~~ **New System.** Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (6-1-99)T
- ~~2940.~~ **Noncommunity Water System.** A public water system that is not a community water system. (12-10-92)
- ~~3041.~~ **Nontransient Noncommunity Water System.** A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (12-10-92)
- ~~3142.~~ **Nuclear Facility.** Factories, processing plants or other installations in which fissionable material is processed, nuclear reactors are operated, or spent (used) fuel material is processed, or stored. (12-10-92)
- ~~32.~~ **Operating Certificate.** A document certifying that a public drinking water system has paid its annual fee assessment. (10-1-93)
- ~~343.~~ **Operator/Owner/Purveyor of Water.** The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers and/or is ultimately responsible for the public water system operation. (6-1-99)T
- ~~344.~~ **Peak Hourly Flow.** The highest hourly flow during any day. (12-10-92)
- ~~345.~~ **Person.** A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)
- ~~346.~~ **Pesticides.** Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algacides. (12-10-92)
- ~~347.~~ **Public Notice.** The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)
- ~~348.~~ **Public Water System.** A system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes (1) any collection, treatment, storage, and distribution facilities under control of the operator of such system, and used primarily in connection with such system, and (2) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system is either a "community water system" or a "noncommunity water system". (12-10-92)
- ~~349.~~ **Reciprocity.** Acceptance of a certification made by another state. Laboratory reciprocity may be granted to laboratories outside of Idaho after application, proof of home state certification, and EPA performance evaluation results are submitted and reviewed. Reciprocity must be renewed after a time specified by the Idaho Laboratory Certification Officer to remain valid. (10-1-93)
- ~~450.~~ **Repeat Compliance Period.** Any subsequent compliance period after the initial compliance period. (12-10-92)
- ~~451.~~ **Sampling Point.** The location in a public water system from which a sample is drawn. (12-10-92)
- ~~452.~~ **Sanitary Defects.** Any faulty structural condition which may allow the water supply to become contaminated. (12-10-92)

53. Sanitary Survey. An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: ()

- a. Source: ()
- b. Treatment: ()
- c. Distribution system: ()
- d. Finished water storage: ()
- e. Pumps, pump facilities, and controls: ()
- f. Monitoring and reporting and data verification: ()
- g. System management and operation; and ()
- h. Operator compliance with state requirements. ()

54. Significant Deficiency. Any defect in a system's design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the State determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. ()

4355. Spring. A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)

4456. Surface Water System. A public water system which is supplied by one (1) or more surface water sources or groundwater sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (12-10-92)()

57. Specific Ultraviolet Absorption (SUVA). SUVA means Specific Ultraviolet Absorption at two hundred fifty-four (254) nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wave length of two hundred fifty-four (254) nm (UV_{254}) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in mg/l). ()

458. System Operator. The person who is employed, retained, or appointed to conduct the tasks associated with day to day operation and maintenance of a public drinking water system, including, but not limited to, repair and maintenance of equipment, adjustment of flow rates and storage quantities, reading of meters, and collection of regulatory monitoring samples. (6-1-99)T

59. Total Organic Carbon (TOC). Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. ()

460. Transient Noncommunity Water System. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (10-1-93)

4761. Turbidity. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

62. Uncovered Finished Water Storage Facility. A tank, reservoir, or other facility that is used to store water that will undergo no further treatment except residual disinfection and is open to the atmosphere.

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4863. Unregulated Contaminant. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

4964. Variance. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the deferment does not cause an unreasonable risk to public health. (12-10-92)

5065. Volatile Organic Chemicals (VOCs). VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

5166. Vulnerability Assessment. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

5267. Waiver. (12-10-92)

a. For the purposes of these rules, except Sections 550 through 552, "waiver" means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (10-1-93)

b. For purposes of Sections 550 through 552, "waiver" means a dismissal of any requirement of compliance. (12-10-92)

c. For the purposes of Section 010, "waiver" means the deferral of a fee assessment for a public drinking water system. (10-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

005. GENERAL PROVISIONS FOR WAIVERS, VARIANCES, AND EXEMPTIONS. 40 CFR 141.4, revised as of July 1, 1999, is herein incorporated by reference. (~~10-1-93~~)()

01. Waivers. (12-10-92)

a. The Department may waive any requirement of Sections 550 through 552, if it can be shown to the satisfaction of the Department that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a public water system. (12-10-92)

b. The Department may at its discretion waive the requirements outlined in Section 010. (10-1-93)

02. Conditions. A waiver, exemption or variance may be granted upon any conditions that the Department, in its discretion, determines are appropriate. Failure by the public water system to comply with any condition voids the waiver, variance or exemption. (12-10-92)

03. Public Hearing. The Department shall provide public notice and an opportunity for public hearing in the area served by the public water system before any exemption or variance under Section 005 is granted by the Department. (12-10-92)

04. Exceptions. Any person aggrieved by the Department's decision on a request for a waiver, variance or exemption may file a petition for a contested case with the Board. Such petitions shall be filed with the Board, as prescribed in Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Rules Governing Contested Cases and Declaratory Rulings". (10-1-93)

05. Surface Water Variances. Variances from the requirements of Sections 300 through 303 are not allowed. ~~(10-1-93)~~()

06. Surface Water Exemptions. Exemptions from 40 CFR 141.72(a)(3) and 40 CFR 141.72(b)(2), incorporated by reference herein, are not allowed. (10-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

050. MAXIMUM CONTAMINANT LEVELS AND MAXIMUM RESIDUAL DISINFECTANT LEVELS.

- 01. Inorganic Contaminants.** (10-1-93)
- a. 40 CFR 141.11 is herein incorporated by reference. (10-1-93)
- b. 40 CFR 141.62 is herein incorporated by reference. (10-1-93)
- c. The maximum contaminant level for cyanide is two-tenths milligram per liter (0.2 mg/l). (12-10-92)
- 02. Organic Contaminants.** (10-1-93)
- a. 40 CFR 141.12, revised as of July 1, 1999, is herein incorporated by reference. ~~(10-1-93)~~()
- b. 40 CFR 141.61 is herein incorporated by reference. except that the best available technology (BAT) treatment listed in 40 CFR 141.61(b) shall be changed to reflect that packed tower aeration will not be listed for toxaphene but will be listed for toluene. (10-1-93)
- 03. Turbidity.** 40 CFR 141.13 is herein incorporated by reference. (10-1-93)
- 04. Radium-226, Radium-228, and Gross Alpha Particle Radioactivity.** 40 CFR 141.15 is herein incorporated by reference. (10-1-93)
- 05. Beta Particle And Photon Radioactivity From Man-Made Radionuclides.** 40 CFR 141.16 is herein incorporated by reference. (10-1-93)
- 06. Microbiological Contaminants.** 40 CFR 141.63 is herein incorporated by reference. (10-1-93)
- 07. Maximum Contaminant Levels For Disinfection Byproducts.** 40 CFR 141.64, revised as of July 1, 1999, is herein incorporated by reference. ()
- 08. Maximum Residual Disinfectant Levels.** 40 CFR 141.65, revised as of July 1, 1999, is herein incorporated by reference. ()
- 079. Effective Dates.** Effective date information provided in specified Sections of 40 CFR that are incorporated by reference are applicable. (12-10-92)

(BREAK IN CONTINUITY OF SECTIONS)

100. MONITORING AND ANALYTICAL REQUIREMENTS.

- 01. Microbiological Contaminant Sampling And Analytical Requirements.** (10-1-93)

- a. 40 CFR 141.21 is herein incorporated by reference. (10-1-93)
- b. The Department may reduce the total coliform monitoring frequency for community water systems serving twenty-five (25) to one thousand (1000) persons, as specified in 40 CFR 141.21(a)(2) and Subsection 100.01. The Department may allow community water systems serving twenty-five (25) to one thousand (1000) persons to reduce the total coliform monitoring frequency to once per quarter when; (12-10-92)
- i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)
- ii. There has been no history of total coliform contamination in it's current configuration; and (10-1-93)
- iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)
- iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)
- v. The system uses only a groundwater source that is protected. (12-10-92)
- c. The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving less than one thousand (1000) persons as specified in 40 CFR 141.21(a)(3)(i) and Subsection 100.01. The Department may allow noncommunity water systems serving less than one thousand (1000) persons to reduce the total coliform monitoring frequency to once per year when; (12-10-92)
- i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)
- ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)
- iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)
- iv. A sanitary survey has been conducted within the past five (5) years which indicates to the Department that there are no deficiencies which could affect microbial quality; and (12-10-92)
- v. The system uses only a groundwater source that is protected. (12-10-92)
- d. The Department may reduce the total coliform monitoring frequency for noncommunity water systems serving more than one thousand (1000) persons during any month the system serves one thousand (1000) persons or fewer as specified in 40 CFR 141.21(a)(3)(ii) and Subsection 100.01. The Department will allow noncommunity water systems serving more than one thousand (1000) persons to reduce the total coliform monitoring frequency for any month the system serves one thousand (1000) persons or fewer, down to a minimum of one (1) sample per year, provided; (10-1-93)
- i. The system submits a written request to the Department in advance of the requirement; and (12-10-92)
- ii. No coliforms have been detected in the last three (3) years of monitoring; and (12-10-92)
- iii. The system has been in compliance with the total coliform monitoring requirements for the last three (3) years; and (12-10-92)
- iv. A sanitary survey has been conducted within the past five (5) years which indicates that there are no deficiencies which could effect microbial quality; and (12-10-92)

- v. The system uses only a groundwater source that is protected. (12-10-92)
- e. A system must collect repeat samples within twenty-four (24) hours of notification of positive results as specified in 40 CFR 141.21(b) and Subsection 100.01. The Department may allow a system to delay collection of repeat samples if the system; (12-10-92)
 - i. Identifies the cause of the contamination; (12-10-92)
 - ii. Is making progress towards correcting the problem; (12-10-92)
 - iii. Submits a written request to delay collecting repeat samples and a written statement admitting an acute MCL violation; (12-10-92)
 - iv. Follows public notification requirements specified under 40 CFR 141.32 for acute MCL violations including notice for consumers to boil their water; (12-10-92)
 - v. Continues to collect the regularly scheduled number of routine samples; (12-10-92)
 - vi. Collects all repeat samples immediately following correction of the problem; and (12-10-92)
 - vii. Collects five (5) routine samples during the month following the end of the violation as required under 40 CFR 141.21 (b)(5), unless waived as allowed under that paragraph. (12-10-92)
- 02. Turbidity Sampling And Analytical Requirements.** 40 CFR 141.22 is herein incorporated by reference. (10-1-93)
- 03. Inorganic Chemical Sampling And Analytical Requirements.** 40 CFR 141.23 is herein incorporated by reference. (10-1-93)
- 04. Organic Chemicals Other Than Total Trihalometranes, Sampling And Analytical Requirements.** 40 CFR 141.24 is herein incorporated by reference. (10-1-93)
- 05. Analytical Methods for Radioactivity.** 40 CFR 141.25 is herein incorporated by reference. (10-1-93)
- 06. Monitoring Frequency For Radioactivity In Community Water Systems.** 40CFR 141.26 is herein incorporated by reference. (10-1-93)
- 07. Waivers And Vulnerability Assessments.** (10-1-93)
 - a. Waivers from sampling requirements in Subsections 100.03, 100.04, 200.01, 551.01.h. and 551.01.i. may be available to all systems for all contaminants except nitrate, nitrite, arsenic and trihalomethanes, and are based upon a vulnerability assessment, use assessment and/or the analytical results of previous sampling. (10-1-93)
 - b. There are two (2) general types of monitoring waivers: (12-10-92)
 - i. Waivers based exclusively upon previous analytical data. (12-10-92)
 - ii. Waivers based on a use or vulnerability assessment. (12-10-92)
 - c. Waivers are to be made by the Department on a contaminant specific basis and must be in writing. (12-10-92)
 - d. Vulnerability assessments may be conducted by the Department, the water system, or a third party organization. The Department shall approve or disapprove all vulnerability assessments in writing. (12-10-92)

e. Water systems which do not receive waivers shall sample at the required initial and repeat monitoring frequencies. (12-10-92)

f. If a system elects to request a waiver from monitoring, it shall do so in writing at least sixty (60) days prior to the required monitoring deadline date. (10-1-93)

08. Initial Monitoring Schedule. In addition to the requirements specified in 40 CFR 141.23, 40 CFR 141.24, and 40 CFR 141.40, initial monitoring must be completed according to the following schedule unless otherwise specified by the Department: (10-1-93)

a. Public water systems serving more than one hundred (100) people must conduct initial monitoring before January 1, 1995 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving any public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

b. Public water systems serving one hundred (100) or less people must conduct initial monitoring before January 1, 1996 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving a public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

09. Alternate Analytical Techniques. 40 CFR 141.27 is herein incorporated by reference. (10-1-93)

10. Approved Laboratories. All analyses conducted pursuant to this chapter, except those listed below, shall be performed in laboratories certified or granted reciprocity by the Department. The following analyses shall be conducted by the public water system in accordance with the procedures approved in Idaho Department of Health and Welfare Rules, IDAPA 16.02.13, Subsection 008.02, "Rules Governing Certification of Idaho Water Quality Laboratories". (10-1-93)

a. pH; (12-10-92)

b. Turbidity (Nephelometric method only); (12-10-92)

c. Daily analysis for fluoride; (12-10-92)

d. Temperature; and (12-10-92)

e. Disinfectant residuals, except ozone, which shall be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.c. (12-10-92)

11. Consecutive Water System. 40 CFR 141.29 is herein incorporated by reference. (10-1-93)

12. Total Trihalomethane Sampling, Analytical And Other Requirements. 40 CFR 141.30, revised as of July 1, 1999, is herein incorporated by reference. ~~(10-1-93)~~()

(BREAK IN CONTINUITY OF SECTIONS)

150. REPORTING, PUBLIC NOTIFICATION, RECORDKEEPING.

- 01. Reporting Requirements.** 40 CFR 141.31 is herein incorporated by reference. (10-1-93)
- 02. Public Notification.** 40 CFR 141.32, revised as of July 1, 1999, is herein incorporated by reference. ~~(10-1-93)~~()
- 03. Record Maintenance.** 40 CFR 141.33 is herein incorporated by reference. (10-1-93)
- 04. Lead Public Notice Requirements.** 40 CFR 141.34 is herein incorporated by reference. (10-1-93)
- 05. Unregulated Contaminant Reporting And Public Notification.** 40 CFR 141.35 is herein incorporated by reference. (10-1-93)
- 06. Reporting And Record Keeping For The Interim Enhanced Surface Water Treatment Rule.** 40 CFR 141.175, revised as of July 1, 1999, is herein incorporated by reference. ()
- 07. Reporting And Record Keeping Requirements For The Disinfectants And Disinfectant Byproducts Rule.** 40 CFR 141.134, revised as of July 1, 1999, is herein incorporated by reference. ()

151. --199. (RESERVED) CONSUMER CONFIDENCE REPORTS. 40 CFR Part 141, Subpart O, revised as of July 1, 1999, is herein incorporated by reference. ()

152. -- 199. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

250. MAXIMUM CONTAMINANT LEVEL GOALS.

- 01. Organic Contaminants.** 40 CFR 141.50 is herein incorporated by reference. (10-1-93)
- 02. Inorganic Contaminants.** 40 CFR 141.51 is herein incorporated by reference. (10-1-93)
- 03. Microbiological Contaminants.** 40 CFR 141.52, revised as of July 1, 1999, is herein incorporated by reference. ~~(10-1-93)~~()
- 04. Maximum Contaminant Level Goals For Disinfection Byproducts.** 40 CFR 141.53, revised as of July 1, 1999, is herein incorporated by reference. ()
- 05. Maximum Residual Disinfectant Level Goals For Disinfectants.** 40 CFR 141.54, revised as of July 1, 1999, is herein incorporated by reference. ()

(BREAK IN CONTINUITY OF SECTIONS)

300. FILTRATION AND DISINFECTION.

01. General Requirements. 40 CFR 141.70, revised as of July 1, 1999, is herein incorporated by reference. (10-1-93)(____)

a. Each community and nontransient noncommunity system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel as specified in 40 CFR 141.70(c) and Sections ~~300~~ 553 through 562 of these Rules. (12-10-92)(____)

~~b. For systems serving more than five hundred (500) persons or utilizing coagulation treatment, all personnel operating the system must be certified as Drinking Water System Operators by an organization acceptable to the Department. Each transient water system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel as specified in 40 CFR 141.70(c). Such personnel must:~~ (12-10-92)(____)

~~e. For systems serving less than or equal to five hundred (500) persons and which do not utilize coagulation treatment, all personnel operating the system must:~~ (12-10-92)

~~i. Be certified as Drinking Water System Operators by an organization acceptable to the Department pursuant to the requirements of Sections 553 through 562; or~~ (12-10-92)(____)

~~ii. Be certified as qualified to operate the water system by the Department. The Department may certify an individual as qualified to operate the water system if:~~ (12-10-92)

(1) The individual operated the system on or before December 31, 1992; and (12-10-92)

(2) The Department determines that the system has not been modified after December 31, 1992; ~~and or~~ (12-10-92)(____)

(3) The Department determines that the compliance history of the system is acceptable; and (12-10-92)

(4) The individual passes any field evaluation of operating and record keeping procedures required by the Department; and (12-10-92)(____)

~~(5)~~ Upon thirty (30) days notice, personnel operating the system shall attend periodic training sessions as required by the Department. (12-10-92)

02. Criteria For Avoiding Filtration. 40 CFR 141.71, revised as of July 1, 1999, is herein incorporated by reference. (10-1-93)(____)

03. Disinfection. 40 CFR 141.72 is herein incorporated by reference. (10-1-93)

a. In addition to the disinfection requirements in 40 CFR 141.72, each system with a surface water source or groundwater source directly influenced by surface water shall maintain a minimum of at least two-tenths (0.2) parts per million of chlorine in the treated water after an actual contact time of at least thirty (30) minutes at maximum hourly demand before delivery to the first customer. (12-10-92)

b. The Department may allow a system to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the system demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum Giardia lamblia and virus inactivation removal rates can be achieved prior to the first customer. (12-10-92)

c. Each system which provides filtration treatment must provide disinfection treatment such that filtration plus disinfection provide ninety-nine and nine tenths percent (99.9%) inactivation and/or removal of Giardia

lamblia cysts and ninety-nine and ninety-nine one hundredths percent (99.99%) inactivation and/or removal of viruses as specified in 40 CFR 141.72 and Section 300. (12-10-92)

i. Each system which provides filtration treatment shall submit engineering evaluations and/or other documentation as required by the Department to demonstrate ongoing compliance with Subsection 300.03.c. (7-1-97)

ii. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise demonstrated to the satisfaction of the Department, the maximum log removal and/or inactivation credit allowed for filtration is as follows:

Maximum Log Removal		
Filtration Type	Giardia	Viruses
Conventional	2.5	2.0
Direct	2.0	1.0
Slow sand	2.0	2.0
Diatomaceous earth	2.0	1.0
Alternate technology	2.0	0

(12-10-92)

- iii. Filtration removal credit shall be granted for filtration treatment provided the system is; (12-10-92)
- (1) Operated in accordance with the Operations Plan specified in Subsection 552.06.a.; and (12-10-92)
 - (2) The system is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and (12-10-92)
 - (3) Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and (12-10-92)
 - (4) Slow sand filters are operated at a rate not to exceed one-tenth (0.1) gallons per minute per square foot; and (12-10-92)
 - (5) Diatomaceous earth filters are operated at a rate not to exceed one and one-half (1.5) gallons per minute per square foot. (12-10-92)

04. Filtration. 40 CFR 141.73, revised as of July 1, 1999, is herein incorporated by reference. (~~10-1-93~~)()

05. Analytical and Monitoring Requirements. 40 CFR 141.74, revised as of July 1, 1999, is herein incorporated by reference. (~~10-1-93~~)()

a. Each public water system which provides filtration treatment shall monitor as follows: (12-10-92)

i. Each day the system is in operation, the purveyor shall determine the total level of inactivation of Giardia lamblia cysts and viruses achieved through disinfection based on CT99.9 values provided in 40 CFR 141.74(b)(3) (Tables 1.1 through 1.6, 2.1 and 3.1). (12-10-92)

ii. At least once per day, the system shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection: (12-10-92)

- and
- (1) Temperature of the disinfected water at each residual disinfectant concentration sampling point; (12-10-92)
 - (2) If using chlorine, the pH of the disinfected water at each chlorine residual sampling point. (12-10-92)
 - (3) The disinfectant contact time, "T", must be determined each day during peak hourly flow. Disinfectant contact time, "T", in pipelines used for *Giardia lamblia* and virus inactivation shall be calculated by dividing the internal volume of the pipe by the peak hourly flow rate through that pipe. Disinfectant contact time, "T", for all other system components used for *Giardia lamblia* and virus inactivation shall be determined by tracer studies or equivalent methods. (12-10-92)
 - (4) The residual disinfectant concentrations at each residual disinfectant sampling point at or before the first customer, must be determined each day during peak hourly flow, or at other times approved by the Department. (12-10-92)
 - iii. The purveyor may demonstrate to the Department, based on a Department approved on-site disinfection challenge study protocol, that the system is achieving disinfection requirements specified in Subsection 300.03 utilizing CT99.9 values other than those specified in 40 CFR 141.74(b)(3) (Tables 2.1 and 3.1) for ozone, chlorine dioxide, and chloramine. (10-1-93)
 - iv. The total inactivation ratio shall be calculated as follows: (12-10-92)
 - (1) If the system applies disinfectant at only one (1) point, the system shall determine the total inactivation ratio by either of the two (2) following methods: (12-10-92)
 - (a) One inactivation ratio (CT_{calc}/CT_{99.9}) is determined at/or before the first customer during peak hourly flow; or (12-10-92)
 - (b) Sequential inactivation ratios are calculated between the point of disinfectant application and a point at or before the first customer during peak hourly flow. The following method must be used to calculate the total inactivation ratio: (12-10-92)
 - (i) Step 1: Determine (CT_{calc}/CT_{99.9}) for each sequence. (12-10-92)
 - (ii) Step 2: Add the (CT_{calc}/CT_{99.9}) values for all sequences. The result is the total inactivation ratio. (12-10-92)
 - (2) If the system uses more than one point of disinfectant application at or before the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant application during peak hourly flow. The sum of the (CT_{calc}/CT_{99.9}) values from all sequences is the total inactivation ratio. (CT_{calc}/CT_{99.9}) must be determined by the methods described in 40 CFR 141.74(b)(4)(i)(B). (12-10-92)
 - v. Log removal credit for disinfection shall be determined by multiplying the total inactivation ratio by three (3). (12-10-92)
 - vi. The Department may reduce the CT monitoring requirements specified under Section 300, for any system which demonstrates that the required inactivation levels are consistently exceeded. Reduced CT monitoring shall be allowed only where the reduction in monitoring will not endanger the health of consumers served by the water system. (12-10-92)
 - b. Residual disinfectant concentrations for ozone must be measured using the Indigo Method, or automated methods may be used if approved as provided for in 40 CFR 141.74(a)(5) and Subsection 300.05. Automated methods for ozone measurement will be allowed by the Department provided they are listed as "Recommended" in the USEPA Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems using Surface Water Sources, Appendix D, as set forth in Subsection 002.01.g., and

provided they are calibrated on a schedule approved by the Department using the Indigo Method. (12-10-92)

c. As provided for in 40 CFR 141.74(b), the Department may specify interim monitoring requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed. Until filtration is installed, systems shall conduct monitoring for turbidity and disinfectant residuals as follows unless otherwise specified by the Departments; (12-10-92)

i. Disinfectant residual concentrations entering the distribution system shall be measured at the following minimum frequencies, and samples must be taken at evenly spaced intervals throughout the workday.

Minimum Frequencies	
Population	Samples/day
Less than 500	1
501 - 1000	2
1,001 - 2,500	3
Greater than 2501	4

(12-10-92)

ii. Turbidity shall be measured at least once per day at the entry point to the distribution system. (12-10-92)

iii. The Department may, at its discretion, reduce the turbidity monitoring frequency for any noncommunity system which demonstrates to the satisfaction of the Department: (12-10-92)

(1) A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; (12-10-92)

(2) The water source is well protected; (12-10-92)

(3) The total coliform MCL is not exceeded; and (12-10-92)

(4) No significant health risk is present. (12-10-92)

d. The Department may allow systems with surface water sources or groundwater sources under the direct influence of surface water, to substitute continuous turbidity monitoring for grab sample monitoring as specified in 40 CFR 141.74(b)(2) and 40 CFR 141.74(c)(1) and Subsection 300.05. The Department may allow continuous turbidity monitoring provided the continuous turbidimeter is operated, maintained, standardized and calibrated per the manufacturers recommendations. For purposes of determining compliance with turbidity performance criteria, discrete values must be recorded every four (4) hours water is supplied to the distribution system. (10-1-93)

e. The Department may allow systems using both a surface water source(s), or groundwater source(s) under the direct influence of surface water, and one (1) or more groundwater sources, to measure disinfectant residual at points other than the total coliform sampling points, as specified in 40 CFR 141.74(b)(6)(i) and 40 CFR 141.74(c)(3)(i) and Subsection 300.05. The Department may allow alternate sampling points provided the system submits an acceptable alternate monitoring plan to the Department in advance of the monitoring requirement. (10-1-93)

f. The Department may allow a reduced turbidity monitoring frequency for systems using slow sand filtration or technology other than conventional, direct, or diatomaceous earth filtration, as specified in 40 CFR

141.74(c)(1) and Subsection 300.05. To be considered for a reduced turbidity monitoring frequency, a system must submit a written request to the Department in advance of the monitoring requirement. (12-10-92)

06. Reporting And Record Keeping. 40 CFR 141.75 is herein incorporated by reference. (10-1-93)

a. As provided in 40 CFR 141.75(a) and Section 300, the Department may establish interim reporting requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a) and as referred to in Subsection 300.06. Until filtration treatment is installed, systems required to install filtration treatment shall report as follows: (12-10-92)

i. The purveyor shall immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: (12-10-92)

(1) The occurrence of a waterborne disease outbreak potentially attributable to that water system; (12-10-92)

(2) Any turbidity measurement which exceeds five (5) NTU; and (12-10-92)

(3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. (12-10-92)

ii. The purveyor shall report to the Department within ten (10) days after the end of each month the system serves water to the public the following monitoring information using a Department-approved form: (12-10-92)

(1) Turbidity monitoring information; and (12-10-92)

(2) Disinfectant residual concentrations entering the distribution system. (12-10-92)

iii. Personnel qualified under Subsection 300.01 shall complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. (12-10-92)

b. In addition to the reporting requirements in 40 CFR 141.75(b) pertaining to systems with filtration treatment, each public water system which provides filtration treatment must report the level of Giardia lamblia and virus inactivation and/or removal achieved each day by filtration and disinfection. (12-10-92)

301. --349. (RESERVED) ENHANCED FILTRATION AND DISINFECTION.

This Section incorporates, 40 CFR Part 141, Subpart P, of the National Primary Drinking Water Regulations, known as the Interim Enhanced Surface Water Treatment Rule. ()

01. General Requirements. 40 CFR 141.170, revised as of July 1, 1999, is herein incorporated by reference. ()

02. Criteria For Avoiding Filtration. 40 CFR 141.171, revised as of July 1, 1999, is herein incorporated by reference. ()

03. Disinfection Profiling And Benchmarking. 40 CFR 141.172, revised as of July 1, 1999, is herein incorporated by reference. ()

04. Filtration. 40 CFR 141.173, revised as of July 1, 1999, is herein incorporated by reference. ()

05. Filtration Sampling Requirements. 40 CFR 141.174, revised as of July 1, 1999, is herein incorporated by reference. ()

06. Reporting And Record Keeping. 40 CFR 141.175, revised as of July, 1, 1999, is herein incorporated by reference. ()

302. SANITARY SURVEYS.

The Department shall conduct a sanitary survey of all public water systems which use surface water or ground water under the direct influence of surface water. ()

01. Frequency. For noncommunity water systems a sanitary survey shall be conducted every five (5) years. For community water systems a sanitary survey shall be conducted every three (3) years, except that a community water system that has been determined to have outstanding performance, according to criteria established by the Department, may have a sanitary survey conducted every five (5) years. ()

02. Report. A report describing the results of the sanitary survey will be provided to the water system. ()

03. Response Required. A water system must respond in writing not later than forty-five (45) days after receipt of the sanitary survey report describing how and on what schedule the system will address significant deficiencies identified in the survey. ()

04. Violation. Failure to address significant deficiencies identified in a sanitary survey that are within the control of the public water system and its governing body shall constitute a violation of these rules. ()

303. COMPOSITE CORRECTION PROGRAM (CCP).

The Department may require a public water system to conduct a composite correction program, as defined in Section 003 of these rules, for the purpose of identifying and correcting deficiencies in water treatment and distribution. Failure to implement the performance improvement factors identified through the CCP constitutes a violation of these rules. ()

304. -- 319. (RESERVED).

320. DISINFECTANT RESIDUALS, DISINFECTION BYPRODUCTS, AND DISINFECTION BYPRODUCT PRECURSORS.

This Section incorporates 40 CFR Part 141, Subpart L, of the National Primary Drinking Water Regulations, known as the Disinfectants and Disinfection Byproducts Rule. ()

01. General Requirements. 40 CFR 141.130, revised as of July 1, 1999, is herein incorporated by reference. ()

02. Analytical Requirements. 40 CFR 141.131, revised as of July 1, 1999, is herein incorporated by reference. DPD colorimetric test kits may be used to measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide. ()

03. Monitoring Requirements. 40 CFR 141.132, revised as of July 1, 1999, is herein incorporated by reference. ()

04. Compliance Requirements. 40 CFR 141.133, revised as of July 1, 1999, is herein incorporated by reference. ()

05. Treatment Techniques For Control Of Disinfection Byproduct (DBP) Precursors. 40 CFR 141.135, revised as of July 1, 1999, is herein incorporated by reference. ()

321. -- 349. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

450. USE OF NON-CENTRALIZED TREATMENT DEVICES.

01. Point Of Use Entry Devices. 40 CFR 141.100, revised as of July 1, 1999, is herein incorporated by reference. (10-1-93)(____)

02. ~~Other Devices~~ Use Of Bottled Water. 40 CFR 141.101, revised as of July 1, 1999, is herein incorporated by reference. (10-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

551. CONSTRUCTION REQUIREMENTS FOR PUBLIC WATER SYSTEMS.

01. Engineering Report. For all new water systems or modifications to existing water systems, an engineering report shall be submitted for the Department's review and approval prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. This report shall provide the following information: (12-10-92)

- a. A general description and location of the project; (12-10-92)
- b. The estimated design population of the project; (12-10-92)
- c. Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including maximum hourly, maximum daily, and average daily demands; (12-10-92)
- d. Storage requirements; (12-10-92)
- e. Pressure ranges for normal and peak flow conditions; (12-10-92)
- f. A hydraulic analysis of the distribution system if requested by the Department; (12-10-92)
- g. Adequacy, quality and availability of sources of water; (12-10-92)
- h. For a community system, results of analysis for total coliform, turbidity inorganic chemical contaminants, organic chemicals other than trihalomethanes, radionuclide contaminants, and total trihalomethanes listed in Subsections 050.02, 100.01, 100.03, 100.04, ~~100.06~~, and 100.12, unless analysis is waived pursuant to Subsection 100.07. (10-1-93)(____)
- i. For a nontransient noncommunity system, results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 100.01, 100.03, and 100.04, unless analysis is waived pursuant to Subsection 100.07. (12-10-92)
- j. For a noncommunity system, results of a total coliform, nitrite, and nitrate analysis listed in Subsections 100.01 and 100.03. (12-10-92)
- k. For any system supplied by surface water or groundwater under the direct influence of surface water, results of turbidity analysis listed in Subsection 100.02. (12-10-92)
- l. For all new groundwater sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of the surface water. (12-10-92)
- m. Potential sources of contamination to proposed sources of water; (12-10-92)
- n. Mechanisms for protection of the system from flooding; (12-10-92)
- o. In addition to the items listed in Subsections 551.01.a. through 551.01.n., the following information

must be provided for proposed surface water sources and groundwater sources under the direct influence of surface water: (12-10-92)

- i. Hydrological and historical low stream flow data; (12-10-92)
- ii. A copy of the water right from the Idaho Department of Water Resources; (12-10-92)
- iii. Anticipated turbidity ranges, high and low; and (12-10-92)
- iv. Treatment selection process and alternative evaluations. (12-10-92)

must be provided for a proposed groundwater source: (12-10-92)

- i. A site plan including potential sources of contamination within five hundred (500) feet of a well or spring; (12-10-92)
- ii. Dimensions of the well lot; and (12-10-92)
- iii. Underground geological data and existing well logs. (12-10-92)

02. Ownership. Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. (10-1-93)

03. Connection To An Existing System. If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that they will be able to provide services to the proposed project. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 551.04. (12-10-92)

04. Review Of Plans And Specifications. (12-1-92)

a. Prior to construction of new public water supply systems or modifications of existing public water supply systems, plans and specifications must be submitted to the Department for review, and approved. The minimum review requirements are as follow: (10-1-93)

- i. Plans and specifications shall be submitted by an Idaho registered professional engineer and bear the imprint of the engineer's seal; (12-10-92)
- ii. Plans shall provide topographical data; (12-10-92)
- iii. Plans shall show location of sources or potential sources of contamination; (12-10-92)
- iv. Plans shall require all new equipment, piping, and appurtenances to meet American Water Works Association standards, as set forth in Subsection 002.01.j. Used materials shall be approved by the Department prior to installation, and shall have been used previously only in the delivery of potable water; and (7-1-97)
- v. Plans shall specify that the project is to be disinfected prior to use in accordance with American Water Works Association standards, as set forth in Subsection 002.01.j. (7-1-97)

b. During construction or modification, no deviation can be made from the approved plans without the Department's prior written approval; and (12-10-92)

c. Within thirty (30) days after the completion of construction, as constructed plans and specifications

are to be submitted to the Department by an Idaho registered professional engineer. If the construction did not deviate from the approved plans and specifications, a registered professional engineer may certify in writing that the constructed plans and specifications are the same as the originally submitted plans and specifications. (12-10-92)

05. Exclusion. A District Health Department may exclude noncommunity water systems from the Department's plan and specification review if the District has reviewed the project and will inspect it during construction. (12-10-92)

06. Construction. No construction shall commence until all of the necessary approvals have been received from the Department. (12-10-92)

07. Source. Before a public water system uses a new source of water to provide water to consumers, the source shall be approved by the Department. (12-10-92)

552. OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.

01. Quantity And Pressure Requirements. (12-1-92)

a. Minimum Pressure. (12-1-92)

i. Any public water system shall be capable of providing sufficient water during maximum hourly demand conditions (excluding fire flow) to maintain a minimum pressure of twenty (20) psi within the system measured at the consumer's water tap. (12-10-92)

ii. Any public water system constructed after July 1, 1985, shall maintain a minimum design working pressure of thirty-five (35) psi and a normal working pressure of sixty (60) psi, measured at the consumer's water tap. (12-10-92)

b. Fire Flows. (12-1-92)

i. Any public water system designed to provide fire flows shall be designed to provide such flows in addition to maximum daily demand for all other uses combined. (12-10-92)

ii. Fire flows shall be compatible with the water demand of existing and planned fire fighting equipment and fire fighting practices in the area served by the system. (12-10-92)

c. Irrigation Flows. (12-1-92)

i. Any public water system constructed after November 1, 1977, shall be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which shall include all cultivable land up to one (1) acre per lot. (12-10-92)

ii. The requirement of Subsection 552.01.c.i. shall not apply if: (12-10-92)

(1) A separate irrigation system is provided; or (12-10-92)

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the water system is designed to accommodate a regulated rate of irrigation flow. (12-10-92)

iii. If a separate nonpotable irrigation system is provided for the consumers, all mains, hydrants and appurtenances shall be easily identified as nonpotable. All new potable services shall be sampled after installation for coliform bacteria to assure no cross connections with the irrigation system exist. (12-10-92)

02. Additives. No chemical or other substance shall be added to drinking water, nor shall any process be utilized to treat drinking water, unless specifically approved by the Department. All chemicals shall conform to applicable American Water Works Association Standards as set forth in Subsection 002.01.j., and be listed as approved under ANSI/NSF standard 60 or 61, as set forth in Subsections 002.01.k.i. and 002.01.l. (7-1-97)

- 03. Groundwater.** (12-10-92)
- a. Public water systems constructed after July 1, 1985, and supplied by groundwater, shall treat water within the system by disinfection if the groundwater source is not protected from contamination. (12-10-92)
- b. The Department may, in its discretion, require disinfection for any existing public water system supplied by groundwater if the system consistently exceeds the MCL for coliform, and if the system does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (12-10-92)
- i. Location of possible sources of contamination; (12-10-92)
- ii. Size of the well lot; (12-10-92)
- iii. Depth of the source of water; (12-10-92)
- iv. Bacteriological quality of the aquifer; (12-10-92)
- v. Geological characteristics of the area; and (12-10-92)
- vi. Adequacy of development of the source. (12-10-92)
- 04. Operating Criteria.** The operating criteria for systems supplied by surface water or groundwater under the direct influence of surface water shall be as follows: (12-10-92)
- a. Each system must develop and follow a water treatment operations plan acceptable to the Department, by July 31, 1993, or within six (6) months of installation of filtration treatment, whichever is later. For a maximum of twelve (12) months, this may be a draft operations plan based on pilot studies or other criteria acceptable to the Department. After twelve (12) months the plan shall be finalized based on full scale operation. (12-10-92)
- b. The purveyor shall ensure that treatment facilities are operated in accordance with good engineering practices such as those found in the Recommended Standards for Water Works, A Committee Report of the Great Lakes - Upper Mississippi River Board of Department Public Health and Environmental Managers as set forth in Subsection 002.01.c., or other equal standard designated by the Department. (12-10-92)
- c. New treatment facilities shall be operated in accordance with Subsection 552.04.b., and the system shall conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the system. (12-10-92)
- 05. Disinfection.** Where chlorine is used as a disinfectant: (12-10-92)
- a. Chlorinator capacity shall be such that a free chlorine residual of at least two (2) parts per million can be attained in the water after a contact time of thirty (30) minutes. This condition must be attainable even when the maximum hourly demand coincides with anticipated maximum chlorine demands. (12-10-92)
- b. A minimum of at least two-tenths (0.2) ppm free chlorine shall be maintained in the treated water after an actual contact period of at least thirty (30) minutes at maximum hourly demand before delivery to the first consumer. (10-1-93)
- c. Automatic proportioning chlorinators are required where the rate of flow is not reasonably constant. (12-10-92)
- d. Analysis for free chlorine residual shall be made at least daily and records of these analyses shall be kept by the supplier of water for five (5) years. The frequency of measuring free chlorine residuals shall be sufficient to detect variations in chlorine demand or changes in water flow. (12-10-92)

- e. A separate and ventilated room for gas chlorination equipment shall be provided. (12-10-92)
- f. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.05.b. (12-10-92)
- g. When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided in accordance with the 1992 Recommended Standards for Water Works, as set forth in Subsection 002.01.c. (12-10-92)
- 06. Fluoridation.** (12-1-92)
- a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association Standards are acceptable as set forth in Subsection 002.01.e.j. Use of other chemicals shall be specifically approved by the Department. (~~10-1-93~~)(____)
- b. The accuracy of chemical feeders used for fluoridation shall be plus or minus five percent (5%) of the intended dose. (12-10-92)
- c. Fluoride compounds shall be stored in covered or unopened shipping containers. Storage areas shall be ventilated. (12-10-92)
- d. Provisions shall be made to minimize the quantity of fluoride dust. (12-10-92)
- e. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. (12-10-92)

(BREAK IN CONTINUITY OF SECTIONS)

997. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department under these rules is subject to the restrictions contained in public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 9-342A, Idaho Code, and the Idaho Rules of the Department of Health and Welfare Rules, IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records in the Possession of the Division of Environmental Quality".
(~~10-1-93~~)(____)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.10 - IDAHO REPORTABLE DISEASES

DOCKET NO. 16-0210-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Chapters 1,5,6,9,10,16,17, and 43, Title 39, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 18, 1999.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance of the proposed rules:

The "Idaho Reportable Diseases" rules have not been updated since 1992. Several important new developments in disease reporting have occurred nationwide since then, necessitating this revision.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Dr. Christine Hahn or Dr. Leslie Tengelsen at (208) 334-5939.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before August 25, 1999.

DATED this 21st day of June, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Legal Services Division
450 West State Street - 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
(208) 334-5564 phone; (208) 334-5548 fax

THE FOLLOWING IS TEXT OF DOCKET NO. 16-0210-9901

000. LEGAL AUTHORITY.

Chapters 1, 5, 6, 9, 10, 16, 17, and 43, Title 39, Idaho Code, grants authority to the Board of Health and Welfare to adopt rules protecting the health of the people of Idaho. (~~12-31-91~~)(____)

001. TITLE AND SCOPE.

01. Title. These rules shall be known as Idaho Department of Health and Welfare Rules, IDAPA 16.02.10, "Idaho Reportable Diseases". (~~11-17-83~~)(____)

02. Scope. These rules contain the official requirements governing the reporting, control, and

prevention of reportable diseases and conditions. The purpose of these rules shall be to identify, control, and prevent the transmission of reportable diseases and conditions within Idaho. ()

002. PURPOSE WRITTEN INTERPRETATIONS.

The purpose of these rules shall be to identify, control, and prevent the transmission of reportable diseases and conditions within Idaho. There are no written interpretations that apply to these rules. (11-17-83)()

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provision of IDAPA 16.05.03. "Rules Governing Contested Case Proceedings and Declaratory Rulings". ()

0034. DEFINITIONS.

For the purposes of this chapter, the following definitions apply. (12-31-91)

01. Airborne Precautions. Methods used to prevent airborne transmission of infectious agents, as described in "Guideline for Isolation Precautions in Hospitals", as defined in Subsection 005.01. ()

042. Approved Fecal Specimens. Specimens of feces obtained from the designated person who has not taken any antibiotic orally or parenterally for two (2) days prior to the collection of the fecal specimen. The specimen must be collected and transported to the laboratory in a manner appropriate for the test to be performed. (9-21-92)

023. Bite Or Other Exposure To Rabies. For the purpose of these rules, bite or bitten shall mean that the skin of the person or animal has been nipped or gripped, or has been wounded or pierced, including scratches, and includes probable contact of saliva with a break or abrasion of the skin. The term "exposure" shall also include contact of saliva with any mucous membrane. In the case of bats, even in the absence of an apparent bite, scratch, or mucous membrane contact, exposure may have occurred, as described in "Human Rabies Prevention-- United States, 1999" as defined in Subsection 005.03. (9-21-92)()

034. Board. The Idaho State Board of Health and Welfare as described in Section 39-107, Idaho Code. (12-31-91)

045. Cancers. Cancers that are designated reportable include the following as described in Section 57-1703, Idaho Code: (9-21-92)()

a. In-situ or malignant neoplasms, but excluding basal cell and squamous cell carcinoma of the skin unless occurring on a mucous membrane and excluding in-situ neoplasms of the cervix. (9-21-92)()

b. Basal or squamous cell carcinoma of the skin if occurring on mucous membranes or lip, eyelids, labia, vulva, penis, scrotum or anus; and (9-21-92)

e. Benign tumors of the brain, meninges, pineal gland, or pituitary gland. (9-21-92)

056. Carrier. A person who can transmit a communicable disease to another person but may not have symptoms of the disease. (12-31-91)

067. Case. A person who has been diagnosed as having a specific disease or condition by a physician or other health care provider. The diagnosis may be based on clinical judgment, or on laboratory evidence, or on both criteria. Individual case definitions are ~~found~~ described in "Case Definitions for Infectious Conditions Under Public Health Surveillance," ~~Mortality and Morbidity Weekly Report, October 19, 1990, Vol. 39, No. RR 13. Centers for Disease Control~~ as defined in Subsection 005.02. (9-21-92)()

078. Cohort System. A communicable disease control mechanism in which cases having the same disease are temporarily segregated to continue to allow supervision and structured attendance in a day care facility. (9-21-92)

089. Communicable Disease. A disease which may be transmitted from one (1) person or an animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means

which may result in infection, illness, disability, or death. (12-31-91)

~~0910.~~ **Contact.** A person who has been exposed to a case or carrier of a communicable disease under circumstances in which he or she could possibly contract the disease or infection. (12-31-91)

~~11.~~ **Contact Precautions.** Methods used to prevent contact transmission of infectious agents, as described in Garner, JS, et al., "Guideline for Isolation Precautions in Hospitals" as defined in Subsection 005.01. ()

~~102.~~ **Day Care.** Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes as described by Section 30-1102, Idaho Code. (9-21-92)

~~143.~~ **Department.** The Idaho Department of Health and Welfare. (12-31-91)

~~124.~~ **District.** Any one of the District Health Departments as established by Section 39-409, Idaho Code. (12-31-91)

~~135.~~ **District Director.** Any one of the directors of a district health department appointed by the District Board as described in Section 39-413, Idaho Code. (9-21-92)

~~14.~~ **Enteric Precautions.** ~~Standard procedures designed to prevent transmission of diseases which can be conveyed through direct or indirect contact with infected feces or with articles contaminated by feces. The procedures are those described in "Guidelines for the Prevention and Control of Nosocomial Infections," as defined in Section 004.~~ (12-31-91)

~~16.~~ **Droplet Precautions.** Methods used to prevent droplet transmission of infectious agents, as described in Garner, JS, et al., "Guideline for Isolation Precautions in Hospitals" as defined in Subsection 005.01. ()

~~157.~~ **Extraordinary Occurrence Of Illness.** ~~An unusual occurrence of a rare communicable disease or other illness.~~ Rare communicable diseases and unusual outbreaks of illness which may be a risk to the public. Illnesses related to drugs, foods, contaminated medical devices, contaminated medical products, and illnesses related to environmental contamination by infectious or toxic agents, or illnesses associated with occupational exposure to physical or chemical agents may be included in this definition. (12-31-91)()

~~168.~~ **Foodborne Outbreak.** An incident in which two (2) or more persons experience a similar illness after ingestion of a common food, and epidemiological analysis implicates the food as the source of the illness. There are two (2) exceptions: one (1) case of botulism or chemical poisoning constitutes an outbreak. (9-21-92)

~~179.~~ **Food Handler.** Any person who handles food utensils or who prepares, processes, handles, or serves food for people other than members of his/her immediate household. (12-31-91)

~~1820.~~ **Health Care Facility.** An establishment organized and operated to provide health care to three (3) or more individuals who are not members of the immediate family. (12-31-91)

~~1921.~~ **Health Care Provider.** A person who has direct or supervisory responsibility for the delivery of health care or medical services. This shall include, but not be limited to: licensed physicians, nurse practitioners, physician assistants, nurses, dentists, chiropractors, and administrators, superintendents, and managers of clinics, hospitals, and licensed laboratories. (9-21-92)

~~202.~~ **Medical Record.** Hospital or medical records are all those records compiled for the purpose of recording a medical history, diagnostic studies, laboratory tests, treatments, or rehabilitation. Access shall be limited to those parts of the record which will provide a diagnosis, or will assist in identifying contacts to a reportable disease or condition. Records specifically exempted by statute shall not be reviewable. (9-21-92)

~~243.~~ **Isolation.** The separation of infected persons, or of persons suspected to be infected, from other

persons to such places, under such conditions, and for such time as will prevent transmission of the infectious agent. The place of isolation shall be designated by the Department or the District Board of Health. (12-31-91)

224. Laboratory Director. A person who has direct responsibility for the operation of a licensed laboratory. (12-31-91)

235. Livestock. Cattle, swine, horses, mules, asses, native and non-native ungulates, as provided in Section 25-221, Idaho Code. (9-21-92)

246. Licensed Laboratory. A medical diagnostic laboratory which is inspected, licensed, or approved by the Department or licensed according to the provisions of the Clinical Laboratory Improvement Act by the United States Health Care and Financing Administration. Licensed laboratory may also refer to the Idaho State Public Health Laboratory, the branch laboratories, and to the United States Centers for Disease Control and Prevention. (12-31-91)(____)

257. Licensed Physician. Any physician who is licensed by the Board of Medicine to practice medicine and surgery in Idaho. (9-21-92)

268. Licensed Veterinarian. Any veterinarian licensed by the Board of Veterinary Medicine. (12-31-91)

279. Outbreak. An unusual rise in the incidence of a disease. An outbreak may consist of just one (1) case. (12-31-91)

2830. Personal Care. The service provided by one (1) person to another for the purpose of feeding, bathing, dressing, assisting with personal hygiene, changing diapers, changing bedding, and other services involving direct physical contact. (12-31-91)

2931. Quarantine. The restriction placed on the entrance to and exit from the place or premise where a case or suspected case of a communicable disease exists. The place of quarantine shall be designated by the Department or District Board of Health. (12-31-91)

32. Rabies Post-Exposure Prophylaxis (PEP). The administration of a rabies vaccine series with or without the antirabies immune-globulin, depending on pre-exposure vaccination status, following a documented or suspected rabies exposure, as described in "Human Rabies Prevention-- United States, 1999" as defined in Subsection 005.03. (____)

303. Rabies Susceptible Animal. Any animal capable of being infected with the rabies virus. (9-21-92)

344. Residential Care Facility. A commercial or non-profit establishment organized and operated to provide a place of residence for three (3) or more individuals who are not members of the same family, but live within the same household. (12-31-91)

~~**32. Respiratory Isolation.** A standard isolation procedure which is designed to prevent transmission of organisms by means of direct contact or droplets that are coughed, sneezed, or breathed into the environment. Procedures described in "Guidelines for the Prevention and Control of Nosocomial Infections," as defined in Section 004, satisfy this method of isolation. (12-31-91)~~

335. Restrictable Disease. A communicable disease which occurs in a setting where predictable and serious consequences may occur to the public. The determination of whether a disease is restrictable is based upon the specific environmental setting and the likelihood of transmission to susceptible persons. (12-31-91)

~~**34. Secretion Precautions.** Standard procedures designed to prevent transmission of diseases which can be conveyed through direct contact with wounds, oral secretions, drainages or secretion contaminated articles. Procedures described in "Guidelines for the Prevention and Control of Nosocomial Infections," as defined in Section 004, satisfy these precautions. (12-31-91)~~

~~356.~~ **Severe Reaction To Any Immunization.** ~~Severe reaction to any immunization means a~~ Any serious or life-threatening condition which results directly from the administration of any immunization against a communicable disease. (12-31-91)(____)

~~367.~~ **Significant Exposure To Blood Or Body Fluids.** Significant exposure occurs when a person is exposed to blood or any blood contaminated body fluid, semen, vaginal secretions, cerebrospinal fluid, or other fluids requiring universal precautions from an individual through needle puncture wound, scalpel cut or skin perforation; through any mucous membrane surface such as the eye, nose or mouth; or through an existing open cut, scratch, hangnail or other broken skin barrier is defined as a percutaneous injury, contact of mucous membrane or non-intact skin, or contact with intact skin when the duration of contact is prolonged or involves an extensive area, with blood, tissue, or other body fluids as defined in "Public Health Service Guidelines for the Management of Health Care Worker Exposures to HIV and Recommendations for Postexposure Prophylaxis" as defined in Subsection 005.04. (5-16-90)(____)

~~38.~~ **Standard Precautions.** Methods used to prevent transmission of all infectious agents, as described in Garner, JS, et al., "Guideline for Isolation Precautions in Hospitals" as defined in Subsection 005.01. (____)

~~379.~~ **State Epidemiologist.** The A person employed by the Department to serve as the a statewide epidemiologist. (9-21-92)(____)

~~3840.~~ **State Health Officer.** The person appointed by the Director of the Department of Health and Welfare to serve as the statewide health officer. (12-31-91)

~~39.~~ **Strict Isolation.** A standard isolation procedure which is designed to minimize the likelihood of transmission of all highly communicable diseases. Procedures described in "Guidelines for the Prevention and Control of Nosocomial Infections," as defined in Section 004, satisfy this method of isolation. (12-31-91)

~~401.~~ **Suspected Case.** A person who is diagnosed with or reasonably thought to have a particular disease or condition by a licensed physician or other health care provider. The suspected diagnosis may be based on signs and symptoms, or on laboratory evidence, or both criteria. Suspected cases of some diseases are reportable as described in Section 020. (12-31-91)

~~41.~~ **Universal Precautions.** Standard procedures designed to prevent transmission of diseases which can be conveyed by direct contact with blood/body fluids or items contaminated with blood or body fluids, according to the recommendations of the Center for Disease Control. (9-21-92)

~~42.~~ **Vaccination Of An Animal Against Rabies.** Vaccination of an animal by a licensed veterinarian with a rabies vaccine licensed or approved for the animal species and administered according to the specifications on the product label or package insert as described in the Compendium of Animal Rabies Control, 1999 as defined in Subsection 005.05. (9-21-92)(____)

~~43.~~ **Week.** One (1) week means seven (7) days. (9-21-92)

~~44.~~ **Working Day.** One (1) 8 a.m. to 5 p.m. official state work shift. (9-21-92)

~~45.~~ **Wound And Skin Precautions.** Standard procedures which are designed to minimize the transmission of infectious agents from wound or skin lesions. Procedures for contact isolation described in "Guidelines for the Prevention and Control of Nosocomial Infections," as defined in Section 004, satisfy these precautions. (9-21-92)

0045. DOCUMENTS INCORPORATED BY REFERENCE DOCUMENTS.

The five (5) documents referenced in Subsections 004.01 through 004.05 are used as a means of further clarifying these rules. These documents are ~~not intended to be~~ incorporated by reference pursuant to Section 67-5203A-29, Idaho Code. These documents are available at the Idaho State Law Library, the Legislative Council, and the Office of Administrative Rules. The documents referenced in this chapter are: (9-21-92)(____)

01. ~~"Guidelines For The Prevention And Control Of Nosocomial Infections Isolation Precautions In Hospitals"~~. Public Health Service, Centers for Disease Control, National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia, 22161. Garner JS et al. "Guideline for Isolation Precautions in Hospitals." Infect Control Hosp Epidemiol 1996; 17:53-80. (9-21-92)()

02. ~~Recommendations For Prevention Of HIV Transmission In Health Care Settings~~. Morbidity and Mortality Weekly Report, August 21, 1987, Vol.36 (supplement no.2S); pp. 1S-18S. Centers for Disease Control. (9-21-92)

03. ~~Update: Universal Precautions for Prevention of Transmission Of Human Immunodeficiency Virus, Hepatitis B Virus, And Other Bloodborne Pathogens In Health Care Settings~~. Morbidity and Mortality Weekly Report, June 24, 1988, Vol.37, No. 24, pp. 377-382. Centers for Disease Control. (9-21-92)

042. ~~"Case Definitions For Infectious Conditions Under Public Health Surveillance"~~. Morbidity and Mortality Weekly Report, October 19, 1990, Vol. 39, No. RR-13 May 2, 1997, Vol 46, No. RR-10. Centers for Disease Control and Prevention. (9-21-92)()

03. ~~"Human Rabies Prevention-- United States, 1999"~~. Morbidity and Mortality Weekly Report, Jan 8, 1999, Vol 48, RR-1. Centers for Disease Control and Prevention. ()

04. ~~"Public Health Service Guidelines For The Management Of Health Care Worker Exposures To HIV And Recommendations For Postexposure Prophylaxis."~~ Mortality and Morbidity Weekly Report, May 15, 1998, Vol 47, RR-7. ()

05. ~~"Compendium Of Animal Rabies Control, 1992 1999"~~. National Association of State Public Health Veterinarians, Inc., Morbidity and Mortality Weekly Report, April 2, 1999, Vol 48, RR-3. Centers for Disease Control and Prevention. (9-21-92)()

0056. -- 009. (RESERVED).

010. REPORTABLE DISEASES AND CONDITIONS.

A licensed physician who diagnoses, treats or cares for a person with a reportable disease or condition must make a report of such disease or condition to the Department or District as described in these rules. The hospital or health care facility administrator, or his delegated representative, must report in accordance with these rules all persons who are diagnosed, treated, or receive care for a reportable disease or condition in the administrator's facility. Reports need not be made by the hospital administrator, or his representative, if they can assure that the attending physician has previously reported the disease or condition. The physician is also responsible for reporting diseases and conditions diagnosed, or treated by physician assistants, nurse practitioners or others under the physician's supervision. In addition to licensed physicians, reports must also be made by physician assistants, certified nurse practitioners, registered nurses, school health nurses, infection surveillance staff, public health officials, laboratory directors, and coroners. No physician, hospital administrative person, or patient may deny Districts or agents of the Board access to medical records in discharge of their duties in implementing the reportable disease rules. School administrators shall report as indicated in Subsection 025.03.g. (9-21-92)

01. Reportable Diseases And Conditions. The following diseases and conditions are reportable to the Department or District. (11-17-83)

- a. Diseases. (11-17-83)
- i. Acquired immunodeficiency syndrome (AIDS); (11-17-83)
- ii. Amebiasis; (11-17-83)
- iii. Anthrax; (11-17-83)
- iv. Botulism; (11-17-83)

v.	Brucellosis;	(11-17-83)
vi.	Campylobacteriosis;	(11-17-83)
vii.	Cancer;	(9-21-92)
viii.	Chancroid;	(11-17-83)
ix.	Chlamydia trachomatis infections;	(4-1-86)
x.	Cholera;	(11-17-83)
<u>xi.</u>	<u>Cryptosporidiosis;</u>	()
xii.	Diphtheria;	(11-17-83)
xiii.	Escherichia coli 0157:H7 <u>and other shiga toxin producing E. coli (STEC);</u>	(9-21-92) ()
xiii.	Giardiasis;	(11-17-83)
<u>xv.</u>	<u>Hantavirus pulmonary syndrome;</u>	()
xiv.	Haemophilus influenza invasive disease;	(9-21-92)
xv.	Hepatitis A;	(11-17-83)
xvi.	Hepatitis B;	(11-17-83)
xvii.	Hepatitis C;	(9-21-92)
xviii.	Herpes simplex, genital;	(11-17-83)
xix.	Legionellosis;	(11-17-83)
xx.	Leprosy;	(11-17-83)
xxi.	Leptospirosis;	(11-17-83)
<u>xxiii.</u>	<u>Listeriosis;</u>	()
xxiii.	Lyme Disease;	(9-21-92)
xxiii.	Malaria;	(11-17-83)
xxiv.	Measles (Rubeola);	(11-17-83)
xxv.	Mumps;	(11-17-83)
<u>xxviii.</u>	<u>Myocarditis, viral;</u>	()
xxviii.	Neisseria gonorrhoeae infections;	(9-21-92)
xxviii.	Neisseria meningitidis invasive disease;	(9-21-92)
xxviii.	Pertussis;	(11-17-83)
xxix.	Plague;	(11-17-83)

- xxxiii. Pneumocystis carinii pneumonia (PCP); (9-21-92)
- xxxiv. Poliomyelitis; (11-17-83)
- xxxv. Psittacosis; (11-17-83)
- xxxvi. Q fever; (11-17-83)
- xxxvii. Rabies (human and animal); (~~11-17-83~~)()
- xxxviii. Relapsing fever, tick-borne and louse-borne; (~~11-17-83~~)()
- xxxix. ~~Reye syndrome~~; (~~11-17-83~~)
- xl. Rocky Mountain spotted fever; (11-17-83)
- xli. Rubella (including congenital rubella syndrome); (11-17-83)
- xlii. Salmonellosis (including typhoid fever); (11-17-83)
- xliii. Shigellosis; (11-17-83)
- xliiii. Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever; (9-21-92)
- xliv. Syphilis; (11-17-83)
- xlv. Tetanus; (11-17-83)
- xlvi. Trichinosis; (11-17-83)
- xlvii. ~~Toxic shock syndrome~~; (~~11-17-83~~)
- xlviii. Tuberculosis; (11-17-83)
- xlviiii. Tularemia; (11-17-83)
- xlvix. Viral ~~myocarditis~~, aseptic encephalitis; and ~~aseptic~~ meningitis; (~~9-21-92~~)()
- xl. Yersinosis. (11-17-83)
- b. Conditions: (11-17-83)
 - i. CD-4 lymphocyte counts less than two hundred (200) per cubic millimeter of blood or less than or equal to fourteen percent (14%). (~~9-21-92~~)()
 - ii. Extraordinary occurrence of illness, including unusual clusters of disease. (~~11-17-83~~)()
 - iii. Severe reactions to any immunization. (~~11-17-83~~)
 - iv. Food poisoning and foodborne illness. (11-17-83)
 - v. Hemolytic-uremic syndrome (HUS). ()
 - v. Human Immunodeficiency Virus (HIV) infections including, ~~but not limited to AIDS related complex (ARC)~~ positive HIV tests: HIV Antibody, HIV Antigen, Human Immunodeficiency Virus isolations, other

tests of infectiousness, as specified by the Department. (9-21-92)()

vi. Human T-Lymphotropic Virus Type I (HTLV I) infections. (9-21-92)()

vii. Lead levels of ten (10) micrograms or more per deciliter of whole blood (ug/dl). (9-21-92)

viii. ~~Positive HIV tests: HIV Antibody, HIV Antigen, Human Immunodeficiency Virus isolations, other tests of infectiousness, as specified by the Department.~~ Reye syndrome; (9-21-92)()

ix. Severe or unusual reactions to any immunization. ()

x. Toxic shock syndrome; ()

02. Form Of The Report. (11-17-83)

a. Each report of a reportable disease or condition shall include the identity and address of the attending licensed physician or the person reporting, the diagnosed or suspected disease or condition, the name, current address, telephone number and birth date or age, race, ethnicity, and sex of the individual with the disease or condition, and the date of onset of the disease or condition. (11-17-83)()

b. A ~~written~~ report of a case or suspected case shall be made to the Department or the District ~~on a form, specified and provided by the Department and distributed by Districts, or reports can be made by telephone, mail or fax to the Department or District where a report form shall be completed on each case.~~ (9-21-92)()

c. The identification of any organism known to cause a reportable disease or condition listed in Subsection 010.03.d. shall be reported to the Department or District by the laboratory director or his authorized representative. The report shall include the name (if known) or other identifier of the individual from whom the specimen was obtained, the name and address of the individual's physician or other person requesting the test, and the identity of the organism or other significant test result. (9-21-92)

03. When To Report. (11-17-83)

a. Some reportable diseases are considered to be of urgent public health importance, and must be reported to the Department or District immediately, day or night. These diseases include: (11-17-83)

i. Anthrax; ()

ii. Botulism; (11-17-83)

iii. Diphtheria; (11-17-83)

~~iiii. Neisseria meningitidis invasive disease;~~ (9-21-92)

iv. Plague; (11-17-83)

v. Rabies in humans. (9-21-92)

b. The following reportable diseases and conditions must be reported to the Department or District within one (1) working day after diagnosis: (9-21-92)

i. ~~Anthrax~~ Brucellosis; (11-17-83)()

ii. Cholera; (9-21-92)

iii. Escherichia coli O157:H7 and other shiga toxin producing E. coli (STEC); ()

iv. Hantavirus pulmonary syndrome; ()

iii v.	Haemophilus influenzae invasive disease;	(9-21-92)
ivi.	Hepatitis A;	(9-21-92)
vii.	Hepatitis B;	(9-21-92)
vi.	Hepatitis C;	(9-21-92)
viii.	<u>Hemolytic-uremic syndrome (HUS);</u>	()
vix .	Measles;	(11-17-83)
x.	<u>Neisseria meningitidis invasive disease;</u>	()
vix i.	Pertussis;	(11-17-83)
ixii.	Poliomyelitis;	(11-17-83)
xiii.	Rabies in animals;	(9-21-92)
xiv.	Rubella (including congenital rubella syndrome);	(11-17-83)
xiv v.	Salmonellosis (including typhoid fever);	(11-17-83)
xiv vi.	Extraordinary occurrence of illness;	(11-17-83)
xivii.	Severe or unusual reactions to any immunization;	(11-17-83)
xviii.	Food poisoning and foodborne illness;	(11-17-83)
c.	The remaining reportable diseases and conditions listed below shall be reported to the Department or District by telephone or by report form within one (1) week of the identification of a case;	(9-21-92) ()
i.	Acquired immunodeficiency syndrome (AIDS);	(9-21-92)
ii.	Amebiasis;	(9-21-92)
iii.	Brucellosis;	(9-21-92)
iv i.	CD-4 lymphocyte counts less than two hundred (200) per cubic millimeter of blood <u>or less than or equal to fourteen percent (14%);</u>	(9-21-92) ()
iv.	Campylobacteriosis;	(9-21-92)
vi.	Chancroid;	(9-21-92)
vii.	Chlamydia trachomatis infections;	(9-21-92)
vii.	<u>Cryptosporidiosis;</u>	()
viii .	Escherichia coli 0157:H7;	(9-21-92)
ix viii.	Giardiasis;	(9-21-92)
ix.	Gonococcal infections;	(9-21-92)

- xi. ~~Herpes simplex, genital;~~ (11-17-83)
- x. Hepatitis C; ()
- xii. Human Immunodeficiency Virus (HIV) infections including, ~~but not limited to AIDS related complex (ARC);~~ positive HIV tests: HIV Antibody, HIV Antigen, Human Immunodeficiency Virus isolations, other tests of infectiousness, as specified by the Department. (9-21-92)()
- xiii. Human T-Lymphotropic Virus ~~Type I (HTLV-I)~~ infections; (9-21-92)()
- xiv. Lead levels of ten (10) micrograms or more per deciliter of whole blood (ug/dl); (9-21-92)
- xv. Legionellosis; (9-21-92)
- xvi. Leprosy; (9-21-92)
- xvii. Leptospirosis; (9-21-92)
- xviii. Listeriosis; ()
- xix. Lyme Disease; (9-21-92)
- xx. Malaria; (9-21-92)
- xxi. Myocarditis, viral; ()
- xxii. ~~Positive HIV tests: HIV Antibody, HIV Antigen, Human Immunodeficiency Virus isolations, other tests of infectiousness, as specified by the Department;~~ (9-21-92)
- xxiii. Pneumocystis carinii pneumonia (PCP); (9-21-92)
- xxiv. Psittacosis; (9-21-92)
- xxv. Q fever; (9-21-92)
- xxvi. Relapsing fever, tick-borne or louse-borne; (9-21-92)()
- xxvii. Reye syndrome; (9-21-92)
- xxviii. Rocky Mountain spotted fever; (9-21-92)
- xxix. Shigellosis; (9-21-92)
- xxx. Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever; (9-21-92)
- xxxi. Syphilis; (9-21-92)
- xxxii. Tetanus; (9-21-92)
- xxxiii. Trichinosis; (9-21-92)
- xxxiiii. Toxic shock syndrome; (9-21-92)
- xxxv. Tuberculosis; (9-21-92)

- xxxv. Tularemia; (9-21-92)
- xxxvi. ~~Viral myocarditis, or aseptic~~ encephalitis; and ~~aseptic~~ meningitis; (~~9-21-92~~)()
- xxxvii. Yersiniosis; (9-21-92)

d. The laboratory director or his authorized representative shall report the identification of the following organisms or significant serologic results or chemical determinations to the Department or District immediately, day or night. The organisms, serologic tests, and chemical determinations to be reported include: ()

- i. Bacillus anthracis; ()
- ii. Yersinia pestis; ()
- iii. Corynebacteria diphtheria; and ()
- iv. Rabies, human or animal. ()

e. The laboratory director or his authorized representative shall report the identification of the following organisms or significant serologic results or chemical determinations to the Department or District within one (1) working day after identification. The organisms, serologic tests, and chemical determinations to be reported include: ()

- i. Bordetella pertussis; ()
- ii. Brucella species; ()
- iii. Escherichia coli 0157:H7 or other shiga-toxin producing E. coli (STEC); ()
- iv. Hantavirus; ()
- v. Neisseria meningitidis from CSF or blood; and ()
- vi. Vibrio cholerae. ()

f. The laboratory director or his authorized representative shall report the identification of the following organisms or significant serologic results or chemical determinations to the Department or District within one (1) week. The organisms, serologic tests, and chemical determinations to be reported include: (9-21-92)

- i. ~~Positive Human Immunodeficiency Virus (HIV) tests: HIV Antibody, HIV Antigen, Human Immunodeficiency Virus culture, other tests of infectiousness, as specified by the Department;~~ (~~9-21-92~~)
- ii. ~~Positive Human T-Lymphotropic Virus Type I (HTLV-I) tests;~~ (~~9-21-92~~)
- iii. CD-4 Lymphocyte Counts below two hundred (200) per cubic millimeter (cu/mm) of blood or less than or equal to fourteen percent (14%); (~~9-21-92~~)()
- ~~iv. Campylobacter jejuni species;~~ (~~11-17-83~~)()
- v. Chlamydia trachomatis; (4-1-86)
- vi. Cryptosporidium; ()
- ~~vii. Corynebacterium diphtheriae;~~ (~~11-17-83~~)
- ~~viii. Escherichia coli 0157:H7;~~ (~~9-21-92~~)

- viii. Giardia lamblia; (11-17-83)()
- ~~ix~~vi. Haemophilus influenzae from CSF or blood; (11-17-83)
- ~~x~~vii. Hepatitis A (IgM antibody); (11-17-83)
- ~~xi~~viii. Hepatitis B surface antigen; (11-17-83)
- ~~xii~~ix. Hepatitis C antibody or antigen; (9-21-92)
- x. Human Immunodeficiency Virus (HIV) tests: positive HIV Antibody, HIV Antigen, Human Immunodeficiency Virus culture, or other tests of infectiousness, as specified by the Department; ()
- xi. Human T-Lymphotropic Virus positive tests; ()
- xiii. Lead levels of ten (10) micrograms or more per deciliter (ug/dl) of whole blood; (9-21-92)
- ~~xiii~~. Listeria species; ()
- xiv. Mycobacterium tuberculosis complex; (11-17-83)()
- xv. Neisseria gonorrhoeae; (11-17-83)
- ~~xvi~~. ~~Neisseria meningitidis from CSF or blood;~~ (11-17-83)
- xvii. Plasmodium species; (11-17-83)
- xviii. Salmonella species; (11-17-83)
- ~~xix~~xviii. Shigella species; (11-17-83)
- xix. Syphilis tests (positive or reactive USR, RPR, VDRL, FTA, darkfield, others); (11-17-83)
- ~~xxi~~. ~~Vibrio cholerae;~~ (11-17-83)
- xxii. Yersinia enterocolitica; (11-17-83)
- xxiii. Yersinia pseudotuberculosis; (9-21-92)
- ~~xxiv~~. ~~Yersinia pestis;~~ (11-17-83)
- eg. Cancer is to be reported within one hundred and eighty (180) year days of its diagnosis or recurrence to the Department or the Department's designated agent or contractor. (9-21-92)()
- 04. Handling Of Reports By The Department And Districts.** (9-21-92)
- a. The Department and the District shall exchange reported information within one (1) working day by telephone on any reported case or suspected case of the following reportable diseases or conditions: (9-21-92)
- i. Anthrax; ()
- ii. Botulism; (11-17-83)
- iii. Cholera; (11-17-83)
- ~~ii~~iv. Diphtheria; (11-17-83)

- | | | |
|----------------------|--|--------------------------|
| v. | <u>E. coli O157:H7 and other shiga toxin producing E. coli (STEC);</u> | () |
| iv i . | Food poisoning and foodborne illness; | (9-21-92) |
| vii. | <u>Hantavirus pulmonary syndrome;</u> | () |
| viii. | Haemophilus influenzae invasive disease; | (9-21-92) |
| vi x . | Measles; | (11-17-83) |
| vii x . | Neisseria meningitidis invasive disease; | (9-21-92) |
| viii x i. | Pertussis; | (11-17-83) |
| ix i . | Plague; | (11-17-83) |
| xiii. | Poliomyelitis; | (11-17-83) |
| xiv. | Rabies in humans <u>or animals;</u> | (9-21-92) () |
| xv y . | Rubella (including congenital rubella syndrome); | (11-17-83) |
| xvi y i. | Salmonella typhi infection; | (11-17-83) |
| xvii y i. | Syphilis; | (11-17-83) |
| xviii. | Extraordinary occurrence of illness; | (11-17-83) |
| xix y . | Severe or unusual reaction to any immunization. | (11-17-83) |
- b. The District shall notify the Department no later than weekly of all other cases of reportable diseases and conditions not specified in Subsection 010.04.a. (9-21-92)
- c. No employee of the Department or District shall disclose the identity of persons named in disease reports except when necessary for the purpose of administering the public health laws of this state. (11-17-83)

(BREAK IN CONTINUITY OF SECTIONS)

015. INVESTIGATION AND CONTROL OF REPORTABLE DISEASES.

01. Responsibility And Authority. (11-17-83)

a. The Department or its authorized representative shall use all reasonable means to confirm in a timely manner any case or suspected case of a reportable disease or condition, and shall determine, so far as possible, all sources of infection and extent of exposure. Investigations may be made when the state health officer, state epidemiologist, or authorized representative determines a disease to be of public health significance. (11-17-83)

b. Every licensed physician or other health care provider attending a person with a reportable disease or condition shall report the case or suspected case, as described in Section 010, shall instruct the person on applicable control measures as outlined in Section 020 and cooperate with the Department or its authorized representative in the investigation and control of the disease or condition. (12-31-91)

c. Any person providing emergency or medical services who believes he has experienced a significant

exposure as defined in Subsection 003.346 may report said exposure as soon as possible or within fourteen (14) days of the occurrence to the Department on a significant exposure report form. When, in the Department's judgment, a significant exposure has occurred, the Department or its designee shall inform the exposed individual that he may have been exposed to the HIV or HBV virus, or that there is no information available based on the Department's current HIV or HBV registry and shall recommend appropriate counseling and testing for the exposed individual.

(9-21-92)()

02. Inspection - Right Of Entry. Pursuant to the authority granted in Section 39-108, Idaho Code, and for the purposes of administering or enforcing the provisions of these rules, any duly authorized representative of the Department shall be permitted to enter upon private or public property, and to enter into any dwelling, building, trailer, aircraft, train, or other vehicle. (11-17-83)

03. Inviolability Of Placards. If it is necessary to use placards, it shall be unlawful for any person to interfere with, conceal, mutilate or tear down any notices or placards on any house, building or premises placed by any authorized representative of the Department. Such placards will be removed only by a health official of the Department or an authorized representative. (11-17-83)

04. Verification Of Diagnosis. Cases of diseases or conditions reported to the Department will be treated as such upon the statement of the attending licensed physician or other health care provider, unless there is reason to doubt the diagnosis. Final decision as to the diagnosis for administrative purposes will rest with the state health officer or his authorized representative. (11-17-83)

05. Closure Of Schools And Places Of Public Assembly. The Director or an authorized representative may order the closing of any public, parochial, or private school, or other place of public assembly when, in his or her opinion, such closing is necessary to protect public health. The school or other place of public assembly shall not reopen until permitted by the authorized health official. (9-21-92)

06. Transportation Of Patients With Communicable Disease. No person with a reportable disease in a communicable form, who is under orders of isolation, nor any contact who is restricted under an order of quarantine, may travel or be transported from one place to another without the permission of the state health officer or his authorized representative. An exception may be made in instances where the patient is to be admitted directly to a hospital or treatment facility, provided adequate precautions are taken to prevent dissemination of the disease by the patient enroute to the hospital or treatment facility. (11-17-83)

07. Quarantine Of Contacts Within Septic Premises. The state health officer or any authorized representative of the Department is empowered whenever a case of any communicable disease occurs in any household or other place within their jurisdiction and, in their opinion, it is necessary that persons residing therein must be kept from contact with the public, to declare the house, building, apartment, or room a place of quarantine and to require that no persons will leave or enter during the period of quarantine except with specific permission of the Department or authorized representative of the Department. (11-17-83)

08. Order To Report For Examination. The state health officer or other authorized health official may issue an order to report for examination. An order to report for examination must be served by delivering one (1) copy to the person to be examined, one (1) copy to the prosecuting attorney of the county or city in which the person resides, and filing the third copy bearing the notation of time and place of service and the signature of the person serving the notice, with the issuing health authority. (9-21-92)

09. Order For Isolation. The state health officer or other authorized health official may issue and rescind an order for isolation. Orders for isolation must be executed as follows: one (1) copy to the individual, one (1) copy to the attending licensed physician, one (1) copy to the prosecuting attorney of the county or city in which the person resides, and one (1) copy to be filed in the office of the issuing health authority along with an affidavit of service signed by the person who served the order. If the place of isolation is other than the individual's place of residence, a copy must be provided to the person in charge of that place. (9-21-92)

10. Sexually Transmitted Disease Infection Contacts. Any person infected with a sexually transmitted infection (venereal disease) as defined in Section 39-601, Idaho Code, shall be required to provide the name, address, and telephone number(s) of all persons from whom the disease may have been acquired and to whom

the disease may have been transmitted, when such information is requested by authorized representatives of the Department. (9-21-92)(____)

11. Treatment Of Minors. Minors fourteen (14) years of age or older may consent to diagnosis, treatment or prevention of reportable diseases or conditions as provided in Section 39-3801, Idaho Code. This includes the administration of vaccines. (9-21-92)

(BREAK IN CONTINUITY OF SECTIONS)

020. SPECIFIC CONTROL MEASURES FOR REPORTABLE DISEASES.

01. Acquired Immune Deficiency Syndrome (AIDS). (9-21-92)

a. Each case of ~~acquired immune deficiency syndrome~~ AIDS meeting the current case definition established by the Centers for Disease Control and Prevention shall be reported to the Department or District within one (1) week of identification. ~~Other manifestations of human immunodeficiency virus (HIV) infection including, but not limited to AIDS related complex (ARC) and tests for HIV Antibody, HIV Antigen, HIV culture or other tests of infectiousness shall also be reported to the Department or District within one (1) week.~~ (9-21-92)(____)

b. Positive laboratory tests for HIV Antibody, HIV Antigen (protein or nucleic acid), HIV culture or other tests that indicate prior or existing HIV infection or CD-4 lymphocyte counts below two hundred (200) per cubic millimeter (cu/mm) of blood must be reported ~~as described in Subsection 010.03.d.i.~~ (9-21-92)(____)

c. Each report of a case of AIDS shall be investigated to obtain specific clinical information, to identify possible sources, risk factors, and contacts. Other manifestations of HIV infection as defined by the Centers for Disease Control and Prevention may be investigated. (9-21-92)(____)

d. A physician may order blood tests for the human immunodeficiency virus (HIV) when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (9-21-92)

02. Amebiasis. (11-17-83)

a. Each case of amebiasis shall be reported to the Department or District within one (1) week of the identification. (11-17-83)

b. A preliminary investigation of each case shall be performed to determine if the case is employed as a food handler, provides personal care at a health care or day care facility, or is a child attending a day care facility. (11-17-83)

c. Persons excreting *Entamoeba histolytica* shall not work as food handlers and shall not engage in any occupation in which they provide personal care to children in day care facilities or to persons confined to health care facilities unless special exemption is made by the Department or authorized representative of the Department. (11-17-83)

i. This restriction may be rescinded if an effective therapeutic regimen has been completed and/or at least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. (9-21-92)

ii. Any member of a household in which there is a case of amebiasis may engage in any of the above occupations at the discretion of the Department provided at least one (1) approved fecal specimen is negative for ova and parasites on examination by a licensed laboratory. (9-21-92)

d. Fecally incontinent persons who are excreting *Entamoeba histolytica* shall not attend day care

facilities unless special exemption is made by the Department or authorized representative of the Department.

(9-21-92)

03. Anthrax.

(11-17-83)

a. Each case or suspected case of anthrax in humans shall be reported to the Department or District by telephone ~~within one (1) working day at the time of identification, day or night.~~ (9-21-92)()

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify the source of infection. Any identified or suspected source of infection shall be reported to the Department which shall notify the Idaho Department of Agriculture. (11-17-83)

04. Botulism.

(11-17-83)

a. Each case or suspected case of botulism shall be reported to the Department or District at the time of identification, day or night. (11-17-83)

b. An investigation of each case or suspected case of botulism shall be performed to confirm the diagnosis, to determine if other persons have been exposed to botulinum toxins, and to identify the source of the disease. (9-21-92)

05. Brucellosis.

(11-17-83)

a. Each case of brucellosis shall be reported to the Department or District within one (1) ~~week~~ working day of the identification. (11-17-83)()

b. Each report of a case shall be investigated to confirm the diagnosis and to identify the source of the infection. Any identified or suspected source of infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture. (9-21-92)

06. Campylobacteriosis.

(11-17-83)

a. Each case of campylobacteriosis shall be reported to the Department or District within one (1) week of identification. (11-17-83)

b. An investigation of each case shall be performed to determine the extent of the outbreak and to identify the source of the infection. (11-17-83)

c. Persons excreting *Campylobacter* spp. shall not work as food handlers or provide personal care in day care facilities, custodial institutions, or medical facilities unless exemption is obtained from the Department or District. This restriction will be rescinded provided at least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Campylobacter* spp. upon testing by a licensed laboratory. (9-21-92)

d. Fecally incontinent persons who are excreting *Campylobacter* spp. shall not attend day care facilities unless exemption is made by the Department. (9-21-92)

07. Cancer.

(11-17-83)

a. The following neoplasms are designated as reportable to the cancer data registry of Idaho within one hundred and eighty (180) year days of diagnosis or recurrence: (9-21-92)()

i. Each in-situ or malignant neoplasm diagnosed by histology, radiology, laboratory testing, clinical observation, autopsy, or suggested by cytology, but excluding basal cell and squamous cell carcinoma of the skin unless occurring on a mucous membrane and excluding in-situ neoplasms of the cervix is reportable. (9-21-92)()

ii. ~~Basal and squamous cell cancers of the skin are reportable if occurring on a mucous membrane or~~

~~lip, eyelid, labia, vulva, penis, scrotum, or anus.~~ (9-21-92)

iii. Benign neoplasms are reportable if occurring in the brain, meninges, pineal gland, or pituitary gland. (9-21-92)

b. The use of the words "apparently," "compatible with," "consistent with," "favor," "most likely," "presumed," "probable," "suspected," "suspicious," or "typical" is sufficient to make a case reportable. (9-21-92)

c. The use of the words "questionable," "possible," "suggests," "equivocal," "approaching," and "rule out" is not sufficient to make a case reportable. (9-21-92)

d. Each case must be reported by patient's name, demographic information, date of diagnosis, primary site, metastatic sites, histology, stage of disease, initial treatments, subsequent treatment, and survival time. (9-21-92)

e. Every private, federal, or military hospital, pathology laboratory, or physician providing a diagnosis and/or treatment related to a reportable cancer is responsible for reporting or furnishing cancer-related data to the cancer data registry. (9-21-92)

f. All data reported to the cancer data registry shall be available for use in aggregate form for epidemiologic analysis of the incidence, prevalence, survival, and risk factors associated with Idaho's cancer experience. Disclosure of confidential information for research projects must comply with the cancer data registry's confidentiality policies, as well as the Idaho Department of Health and Welfare's Rules, IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records". (9-21-92)

08. Chancroid. (11-17-83)

a. Each case of chancroid shall be reported to the Department or District within one (1) week of the identification. (11-17-83)

b. Each person diagnosed with chancroid shall be required to inform their sexual contacts that they have been exposed to a sexually transmitted infection (venereal disease), or provide specific information so public health officials may locate such contacts, so the contacts can be examined and treated (Section 39-605, Idaho Code). (11-17-83)(____)

c. Each case or suspected case of chancroid shall be investigated by a representative of the Department or District after notification has been received. (____)

09. Chlamydia Trachomatis Infections. (9-21-92)

a. Each case of Chlamydia trachomatis infection shall be reported to the Department or District within one (1) week of identification. (9-21-92)

b. Each person diagnosed with ~~genital~~ Chlamydia trachomatis pelvic inflammatory disease shall be investigated to determine the extent of the contact follow-up required. (9-21-92)(____)

c. Cases of Chlamydia trachomatis ophthalmia neonatorum in health care facilities shall be placed under ~~secretion~~ contact precautions. (9-21-92)(____)

d. Prophylaxis against Chlamydia trachomatis ophthalmia neonatorum is required in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 02, Chapter 12, "Rules Governing Procedures and Testing to be Performed on Newborn Infants". (9-21-92)

10. Cholera. (9-21-92)

a. Each case or suspected case of cholera shall be reported to the Department or District by telephone within one (1) working day. (9-21-92)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify contacts, carriers, and the source of the infection. (11-17-83)

c. Persons in health care facilities who have cholera shall be placed under ~~enteric~~ contact precautions. ~~Strict isolation is not necessary.~~ (11-17-83)()

d. Persons excreting *Vibrio cholerae* shall not work as food handlers, and shall not engage in any occupation which provides personal care to children in day care facilities or to persons confined to health care or residential facilities. (11-17-83)

e. Members of the household in which there is a case of cholera may not engage in any of the above occupations unless approved by the Department, or District and provided that they are asymptomatic and at least one (1) approved fecal specimen is found to be negative on culture by a licensed laboratory. (9-21-92)

f. Fecally incontinent persons who are excreting *Vibrio cholerae* shall not attend day care facilities. (9-21-92)

11. Cryptosporidiosis. ()

a. Each case of cryptosporidiosis shall be reported to the Department or District within one (1) week of the identification. ()

b. An investigation of each case shall be performed to determine the extent of the outbreak and to identify the source of the infection. ()

c. Persons with *Cryptosporidium* diarrheal illness shall not work as food handlers or provide personal care in day care facilities, custodial institutions, or medical facilities unless exemption is obtained from the Department or District. This restriction will be rescinded provided at least two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Cryptosporidium* upon testing by a licensed laboratory or twenty-four (24) hours after diarrhea has ceased. ()

d. Fecally incontinent persons who are excreting *Cryptosporidium* shall not attend day care facilities unless exemption is made by the Department. ()

1+2. Diphtheria. (11-17-83)

a. Each case or suspected case of diphtheria shall be reported to the Department or District by telephone immediately, day or night, upon identification. (11-17-83)

b. Each report of a case or suspected case shall be investigated to determine if illness is caused by a toxigenic strain of *Corynebacterium diphtheriae*, to determine the extent of the outbreak, and to identify contacts, carriers, and the source of the infection. (11-17-83)

c. Cases of oropharyngeal toxigenic diphtheria in health care facilities shall be placed under ~~strict isolation~~ droplet precautions. The Department or authorized representative of the Department may rescind this ~~isolation~~ requirement after two (2) cultures of the nose and two (2) cultures from the throat, taken at least twenty-four (24) hours apart and at least twenty-four (24) hours after the completion of antibiotic therapy, fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory. (11-17-83)()

d. Cases of cutaneous toxigenic diphtheria shall be placed under ~~wound and skin~~ contact precautions. The Department or authorized representative of the Department may rescind these precautions after two (2) cultures from the wound fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory. (11-17-83)()

e. Contacts of cases of toxigenic diphtheria shall be offered immunization against diphtheria. (11-17-83)

f. Contacts shall be restricted from working as food handlers, working in health care facilities, or residential facilities, or from attending or working in day care facilities or schools until they are determined not to be carriers by means of a nasopharyngeal culture or culture of other site suspected to be infected. This restrictions may be rescinded by the Department or authorized representative of the Department. (11-17-83)

123. Escherichia Coli 0157:H7 And Other Shiga Toxin Producing E. coli (STEC). (9-21-92)()

a. Each case or suspected case of infection with E. coli 0157:H7 and other STEC shall be reported to the Department or District within one (1) week working day of the identification. (9-21-92)()

b. A preliminary investigation of each case or suspected case shall be performed to determine if the person is employed as a food handler, provides personal care at a health care or day care facility, or is a child attending a day care facility. The investigation shall determine the extent of the outbreak and identify the most likely source of the infection. (9-21-92)()

c. Persons who are excreting E. coli 0157:H7 and other STEC may not provide personal care to children in day care facilities or to persons in health care facilities or work as food handlers while the disease is present in a communicable form without the approval of the Department or the District. One (1) negative fecal specimen for E. coli 0157:H7 and other STEC is sufficient to remove restrictions on personnel. (9-21-92)()

d. Fecally incontinent persons who are excreting E. coli 0157:H7 and other STEC may not attend day care facilities unless exemption is made by the Department or District. One (1) negative fecal specimen for E. coli 0157:H7 and other STEC is sufficient to remove day care attendance restrictions. (9-21-92)()

134. Giardiasis. (11-17-83)

a. Each case of giardiasis shall be reported to the Department or District within one (1) week of the identification. (11-17-83)

b. A preliminary investigation of each case shall be performed to determine if the person is employed as a food handler, provides personal care at a health care or day care facility, or is a child attending day care facility. The preliminary investigation shall also determine the water sources used by the person with giardiasis. The investigation shall determine the extent of the outbreak, and identify the most likely source of the infection. (11-17-83)

c. Persons with diarrhea who are excreting Giardia ~~lamblia~~ may not provide personal care to children in day care facilities or to persons in health care facilities or work as food handlers while the disease is present in a communicable form or until two (2) days of therapy have been completed. Asymptomatic persons may provide these services with specific approval of the Department or District. (9-21-92)()

d. Fecally incontinent persons with diarrhea who are excreting Giardia ~~lamblia~~ may not attend day care facilities. Asymptomatic children who are excreting Giardia ~~lamblia~~ may attend after investigation is made, hygiene of the facility is determined adequate, and an exemption is made by the Department. (9-21-92)()

15. Hantavirus Pulmonary Syndrome. ()

a. Each case of acute hantavirus infection manifesting as the hantavirus pulmonary syndrome, will be reported to the Department or District within one (1) working day of identification. ()

b. Each report of a case shall be investigated to confirm the diagnosis, determine environmental risk factors leading to infection, and determine any other at-risk individuals. ()

c. The extended CDC case investigation and environmental assessment forms shall be completed in a timely manner. ()

145. Haemophilus Influenzae Invasive Disease. (9-21-92)

a. Each case of invasive Haemophilus influenzae invasive disease, including but not limited to meningitis, septicemia, bacteremia, epiglottitis, pneumonia, osteomyelitis and cellulitis, shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

b. Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify contacts, and to determine the need for antimicrobial prophylaxis of close contacts. (11-17-83)

c. Any person who is diagnosed with a disease caused by invasive Haemophilus influenzae shall not provide personal care to children attending a day care facility, or be engaged in any occupation where there is direct contact with students in a private, parochial, or public school as long as the disease is in a communicable form. (11-17-83)

d. Any person who is diagnosed with a disease caused by invasive Haemophilus influenzae shall not attend a day care facility, or a private, parochial, or public school as long as the disease is in a communicable form. (11-17-83)

17. Hemolytic Uremic Syndrome (HUS). ()

a. Each case of HUS shall be reported to the Department or District within one (1) working day. ()

b. Each case of HUS shall be investigated to confirm the diagnosis, determine the etiologic agent including E. coli O157:H7, non-O157 shiga-toxin producing E. coli, other enteric pathogens , and determine the source of infection. ()

158. Hepatitis A. (9-21-92)

a. Each case or suspected case of hepatitis A shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, to identify contacts, to determine the need for immune serum globulin (gamma globulin), and to identify possible sources of the infection so subsequent cases may be prevented. (11-17-83)

c. Persons with hepatitis A in health care facilities shall be placed under ~~enteric~~ contact precautions as long as the disease is present in a communicable form. (11-17-83)()

d. Persons with hepatitis A shall be restricted from working as a food handler and shall not engage in any occupation in which he/she provides personal care to children in a day care facility or to persons who are confined to health care or residential care facilities. (11-17-83)

i. The Department or authorized representative of the Department may rescind this restriction when the illness is considered no longer to be in a communicable stage. (11-17-83)

ii. Any unvaccinated member of the household in which there is a case of hepatitis A may not engage in any of the above mentioned occupations unless exemption is obtained from the Department or District. (11-17-83)()

iii. A specific test for recent hepatitis A infection (IgM antiHAV) shall be performed by a licensed laboratory on all food handlers suspected of having hepatitis A (9-21-92)

e. Children who have hepatitis A shall not attend nurseries or day care facilities until the disease is no longer communicable as determined by a licensed physician, or unless exemption is made by the Department or District. (9-21-92)

f. A physician may order blood tests for hepatitis A when an informed consent is not possible and

there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (5-16-90)

169. Hepatitis B. (9-21-92)

a. Each case of hepatitis B shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

b. Each report of a case shall be investigated to confirm the diagnosis, to identify contacts and carriers, to determine the need for prophylaxis with immune globulins, to determine the need for hepatitis B vaccine, to determine the exposure of any pregnant women, and to identify possible sources of the infection so subsequent cases can be prevented. (9-21-92)

~~e. Persons with hepatitis B in health care facilities shall be placed under universal precautions as long as the disease is present in a communicable form. (9-21-92)~~

~~ed.~~ The carrier status of all persons diagnosed with hepatitis B shall be determined six (6) months after the initial diagnosis is established. (11-17-83)

i. The carrier status shall be determined by the presence of hepatitis B surface antigen (HBsAg) in blood obtained at least six (6) months after the initial diagnosis of hepatitis B. (9-21-92)

ii. The test for hepatitis B surface antigen (HBsAg) shall be performed by a licensed laboratory. (11-17-83)

iii. All persons who are carriers of hepatitis B shall be reported to the Department or District by their physician at the time of determination for inclusion in the hepatitis B carrier registry. (9-21-92)

~~ed.~~ A physician may order blood tests for hepatitis B when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (5-16-90)

1720. Hepatitis C. (9-21-92)

a. Each case of hepatitis C shall be reported to the Department or District within one (1) ~~working day~~ week of identification. (9-21-92)(____)

b. Each reported case of acute hepatitis C shall be investigated to confirm the diagnosis, and to identify possible sources of the infection so subsequent cases may be prevented. (9-21-92)(____)

b. Each reported case of hepatitis C shall be investigated to confirm the diagnosis, and to identify possible sources of the infection so subsequent cases may be prevented. (9-21-92)

~~e. Persons with hepatitis C in health care facilities shall be placed under universal precautions for such time as determined by the facility. (9-21-92)~~

~~ed.~~ A physician may order blood tests for hepatitis C when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (9-21-92)

18. Herpes Simplex, Genital. (9-21-92)

~~a. Each case of genital herpes simplex shall be reported to the Department or District within one (1) week of the identification. (11-17-83)~~

~~b. Each person diagnosed with a genital herpes infection shall be informed by their physician, or other health care provider, that they have the disease and what precautions can be taken to prevent the transmission of the~~

~~infection.~~ (11-17-83)

~~e. Each person diagnosed with a genital herpes infection shall be encouraged to inform their sexual contacts that they may have been exposed to a venereal disease.~~ (9-21-92)

21. Human Immunodeficiency Virus (HIV) Infection. ()

a. Each case of HIV infection shall be reported to the Department or District within one (1) week of identification. ()

b. Positive laboratory tests for HIV Antibody, HIV Antigen (protein or nucleic acid), HIV culture or other tests that indicate prior or existing HIV infection must be reported as described in Subsection 010.03.d.i. ()

c. Each reported case of HIV infection shall be investigated to obtain specific clinical information, to identify possible sources, risk factors, and contacts. Other manifestations of HIV infection as defined by the Centers for Disease Control and Prevention may be investigated. ()

d. A physician may order blood tests for HIV when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. ()

22. Human T-Lymphotropic Virus (HTLV) Positive Tests. ()

a. HTLV infections (I and II) shall be reported to the Department or District within one (1) week of the identification. ()

b. Each reported case of HTLV infection may be investigated to determine the source of infection and evaluate risk factors. ()

~~1923.~~ **Legionellosis.** (11-17-83)

a. Each case of legionellosis shall be reported to the Department or District within one (1) week of the identification. (11-17-83)

b. Each reported case of legionellosis shall be investigated to confirm the diagnosis, and to identify possible sources of the infection so subsequent cases may be prevented. ()

b. When two (2) or more cases occur ~~among closely associated persons~~ within thirty (30) days of each other, an investigation shall be conducted to identify a common environmental source, and to identify ways to prevent further infections. (11-17-83)()

~~204.~~ **Leprosy.** (11-17-83)

a. Each case of leprosy shall be reported to the Department or District within one (1) week of the identification. (9-21-92)

b. Each reported case or suspected case shall be investigated to confirm the diagnosis and to identify all household or other close contacts. (11-17-83)

c. All household or close contacts of a new case shall be examined by a licensed physician for signs of leprosy. Household contacts and patients in remission shall be registered with the Department and undergo periodic medical examinations every six (6) to twelve (12) months for five (5) years. (11-17-83)

~~215.~~ **Leptospirosis.** (11-17-83)

a. Each case of leptospirosis shall be reported to the Department or District within one (1) week of

identification. (11-17-83)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis and to identify possible sources of the infection. Any identified or suspected source of infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture if animals are involved. (11-17-83)

26. Listeriosis. ()

a. Each case of listeriosis shall be reported to the Department or District within one (1) week of the identification. ()

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis and to identify possible sources of the infection and extent of the outbreak. ()

27. Lyme Disease. (9-21-92)

a. Each case of Lyme Disease shall be reported to the Department or District within one (1) week of the identification. (9-21-92)

b. Each report of a case shall be investigated to confirm the diagnosis and to identify possible sources of the infection. Any identified or suspected source of infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture if animals are involved. (9-21-92)

238. Malaria. (9-21-92)

a. Each case of malaria shall be reported to the Department or District within one (1) week of identification. (9-21-92)

b. Each report of a case shall be investigated to determine the type and the source of the infection. (9-21-92)

c. If transmission may have occurred in Idaho, an entomologic investigation ~~may~~ shall be performed by the Department or District to determine the extent of mosquito activity, and to institute control measures if endemic transmission has been determined necessary. (9-21-92)()

d. Persons with malaria in health care facilities shall be placed under universal precautions while the disease is present in an infectious form. (9-21-92)

e. A physician may order blood tests for malaria when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (5-16-90)

249. Measles. (9-21-92)

a. Each case or suspected case of measles (rubeola) shall be reported to the Department or District by telephone within one (1) working day after identification. (9-21-92)

b. Each report of a case or suspected case shall be investigated promptly to confirm the diagnosis, to determine the extent of the outbreak, to identify the source of the infection, and to identify susceptible contacts. (11-17-83)

c. Cases or suspected cases of measles in health care facilities shall be placed under ~~respiratory isolation~~ airborne precautions until the fifth day after the onset of rash. (11-17-83)()

d. A person who is diagnosed as having measles shall not engage, as long as the disease is in a communicable stage, in any occupation in which there is direct contact with children ~~in day care facilities, or persons in schools, health care, or residential care facilities.~~ (11-17-83)()

e. A child diagnosed with measles shall not attend a day care facility as long as the disease is in a communicable stage. (11-17-83)

f. Any person, regardless of age, shall not attend a private, parochial, charter, or public school as long as the disease is in a communicable stage. (11-17-83)()

g. In the event of an outbreak, susceptible children must be excluded from day care facilities and schools until adequate immunization is obtained, or the threat of further spread is contained (Section 33-512, Idaho Code). (9-21-92)

2530. Mumps. (9-21-92)

a. Each case of mumps shall be reported to the Department or District within one (1) week of identification. (9-21-92)

b. Each report of a case may be investigated to determine the immunization history or if there is an unusual cause for an outbreak. (9-21-92)

c. Each case of mumps shall be restricted from school or work for nine (9) days after onset of parotid swelling. ()

31. Myocarditis, Viral. ()

a. Each case of diagnosed or suspected viral myocarditis shall be reported within one (1) week of identification. ()

b. Each report of a case shall be investigated to confirm the diagnosis, to identify clusters or outbreaks of the infection, and to identify the agent or source of the infection. ()

2632. Neisseria Gonorrhoeae Infections. (9-21-92)

a. Each case of Neisseria gonorrhoeae infection shall be reported to the Department or District within one (1) week of identification. (9-21-92)

b. Each person diagnosed with urethral, cervical, oropharyngeal, or rectal gonorrhea shall be required to inform their sexual contacts, or provide sufficient information so public health officials may locate such contacts, advise that they have been exposed to a sexually transmitted infection (venereal disease) and should seek examination and treatment. (9-21-92)()

~~e. Cases of gonococcal ophthalmia neonatorum in health care facilities shall be placed under wound and skin precautions. (11-17-83)~~

~~c.~~ Prophylaxis against gonococcal ophthalmia neonatorum shall be as described in Idaho Department of Health and Welfare Rules, IDAPA 16.02.12, "Rules Governing Procedures and Testing to be Performed on Newborn Infants". (11-17-83)

2733. Neisseria Meningitidis Invasive Disease. (9-21-92)

a. Each case of invasive disease caused by Neisseria meningitidis, including but not limited to meningitis and septicemia shall be reported to the Department or District by telephone ~~at the time~~ within one (1) working day of identification, ~~day or night.~~ (9-21-92)()

b. Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify contacts, and to determine the need for antimicrobial prophylaxis and/or immunization of close contacts. (9-21-92)

c. Any person who is diagnosed with a disease caused by *Neisseria meningitidis* shall not provide personal care to children attending a day care facility, or engage in any occupation where there is direct contact with students in private, parochial, charter, or public schools as long as the disease is present in a communicable form. (11-17-83)(____)

d. Any person who is diagnosed with a disease caused by *Neisseria meningitidis* shall not attend a day care facility, or a private, parochial, charter, or public school as long as the disease is present in a communicable form. (11-17-83)(____)

~~e. Persons with meningococcal disease in health care facilities or residential care facilities shall be placed under respiratory isolation until twenty four (24) hours after the initiation of effective therapy. (11-17-83)~~

2834. Pertussis. (9-21-92)

a. Each case or suspected case of pertussis shall be reported to the Department or District by telephone within one (1) working day of identification. (9-21-92)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify susceptible contacts, and to identify the source of the infection so additional cases can be prevented. (11-17-83)

~~e. Cases or suspected cases of pertussis in health care facilities shall be placed under respiratory isolation until no longer considered communicable by the attending physician. (11-17-83)~~

~~d.~~ A person who is diagnosed with pertussis shall not engage in any occupation in which there is direct contact with children in a day care facility or other persons in health care facilities, residential care facilities, or schools as long as the disease is in a communicable stage. (11-17-83)

~~ed.~~ Any person diagnosed with pertussis shall not attend a private, parochial, charter, or public school or a day care facility as long as the disease is in a communicable stage. (11-17-83)(____)

2935. Plague. (11-17-83)

a. Each case or suspected case of plague shall be reported to the Department or District by telephone immediately, day or night, upon identification, which shall notify the Idaho Department of Agriculture if animals are involved. (11-17-83)(____)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, determine the source and extent of the outbreak, and to ascertain if there has been person-to-person transmission. (11-17-83)

c. Cases or suspected cases of pneumonic plague in health care facilities shall be placed under ~~strict isolation~~ droplet precautions until two (2) full days of appropriate antibiotic therapy has been completed, and there has been a favorable clinical response. (11-17-83)(____)

~~d. Cases or suspected cases of bubonic plague in health care facilities shall be placed under strict isolation precautions and treated with appropriate antibiotics. (9-21-92)~~

~~ed.~~ Household and face-to-face contacts of persons with pneumonic plague shall be placed on chemoprophylaxis and placed under surveillance for seven (7) days. Persons who refuse chemoprophylaxis shall be maintained ~~in strict isolation~~ under droplet precautions with careful surveillance for seven (7) days. (11-17-83)(____)

306. Pneumocystis Carinii Pneumonia (PCP). (9-21-92)

a. Each case of *Pneumocystis carinii* pneumonia shall be reported to the Department or District within one week of identification. (9-21-92)

b. Each report of a case shall be investigated to confirm the diagnosis, and to determine the underlying cause of any immune deficiency which may have contributed to the disease. If the underlying cause is an HIV infection, that shall be reported. (9-21-92)

317. Poliomyelitis. (9-21-92)

a. Each case or suspected case of poliomyelitis shall be reported to the Department or District by telephone within one (1) working day of identification. (9-21-92)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, to determine whether the case is polio vaccine associated, or wild virus associated, to determine the extent of the outbreak, to ascertain if there has been person-to-person transmission, to identify susceptible contacts, carriers, and the source of the infection. (9-21-92)

~~e. Cases and suspected cases of poliomyelitis in health care facilities shall be placed under enteric precautions. (11-17-83)~~

~~d.~~ The immunization status of all contacts shall be ascertained and all susceptible contacts shall be offered immunization. (11-17-83)

328. Psittacosis. (11-17-83)

a. Each case of psittacosis shall be reported to the Department or District within one (1) week of identification. (11-17-83)

b. Each case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify contact with possible sources of the infection. (11-17-83)

c. Any identified sources or suspected sources of infection shall be reported to the Department which shall notify the Idaho Department of Agriculture if birds or other animals are involved. (11-17-83)

332. Q Fever. (11-17-83)

a. Each case shall be reported to the Department or District within one (1) week of identification. (11-17-83)

b. Each reported case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify the source of the infection. (11-17-83)

c. Any identified or suspected sources of infection shall be reported to the Department which shall notify the Idaho Department of Agriculture if animals are involved. (11-17-83)

340. Rabies. (11-17-83)

a. Each case of rabies in humans shall be reported immediately to the Department or District, day or night, upon identification. Each case of rabies in animals shall be reported to the Department or District and the Department of Agriculture within one (1) working day. (9-21-92)

b. Each report of a case of rabies in humans shall be investigated to confirm the diagnosis, to identify the source and other persons or animals that may have been exposed to the source, and to identify persons who may need to undergo prophylaxis with rabies immune globulin and rabies vaccine. (9-21-92)

~~c. A case or suspected case of rabies in humans shall be placed under strict isolation in a health care facility. Each instance of post-exposure prophylaxis (PEP) initiation shall be reported to the Department or District within one (1) working day. (11-17-83)()~~

d. Each reported PEP initiation shall be investigated to determine if additional individuals require PEP and to identify the source of possible exposure. ()

de. In the event that a human or animal case of rabies occurs, any authorized representative of the Idaho Department of Agriculture or Department or District shall establish such isolation and quarantine of animals as deemed necessary to protect the public health. (9-21-92)

ef. The handling of a rabies susceptible animal which has bitten a person shall be as follows:(9-21-92)

i. Any livestock which has bitten a person shall be managed by the Department of Agriculture. (9-21-92)

ii Any healthy domestic dog, ~~or cat,~~ or ferret which has bitten a person shall be observed for ten (10) days following the bite under the supervision of a licensed veterinarian or other person designated by the Idaho Department of Agriculture or the Department or District. Such observation shall be within an enclosure, or with restraints deemed adequate to prevent contact with any member of the public or other animals. (~~11-17-83~~)()

iii. It shall be the animal owner's responsibility to carry out the quarantine of the biting animal and to follow instructions provided for the quarantine of the animal. (11-17-83)

iv. Any domestic dog, ~~or cat,~~ or ferret that has not been vaccinated against rabies and cannot be quarantined, shall be destroyed by a means other than shooting in the head. The head shall be submitted to an approved laboratory for rabies analysis. (9-21-92)()

v. Susceptible animals other than domestic dogs, cats, ferrets, or livestock shall be destroyed and the head submitted to an approved laboratory for rabies analysis. (9-21-92)()

vi. No person shall destroy or allow to be destroyed the head of a rabies susceptible animal which has bitten a person, without authorization from the Department. (~~11-17-83~~)()

fg. The handling of a rabies susceptible animal that has not bitten a person, but has within the past one hundred eighty (180) days been bitten, mouthed, or mauled by, or closely confined in the same premises with a known rabid animal shall be as follows: (9-21-92)

i. Any domestic dog, ~~or cat,~~ ferret, or livestock which has not been vaccinated as recommended by the American Veterinary Medical Association, shall be placed in quarantine for a period of six (6) months under the observation of a licensed veterinarian or a person designated by the Department or the Department of Agriculture and vaccinated one (1) month prior to release from quarantine. Vaccinated animals including livestock should be revaccinated immediately with a currently recommended rabies vaccine and quarantined for ~~ninety~~ forty-five (90/45) days. These provisions apply only to domestic animals for which an approved rabies vaccine is available. (9-21-92)()

ii. The quarantine of such animal shall be within an enclosure deemed adequate by an authorized representative of the Idaho Department of Agriculture or the Department, or District to prevent contact with any person or rabies susceptible animal. (9-21-92)

iii. The owner of the animal shall be financially responsible for the cost of isolating and quarantining the animal and costs for specimen collection and testing. (11-17-83)

iv. Destruction of such animal shall be permitted as an alternative to quarantine. (11-17-83)

gh. Any rabies susceptible animal other than domestic dogs, cats, ferrets, or livestock which are suspected of having rabies, or which have been in close contact with an animal known to be rabid shall be destroyed. The animal shall be tested by an approved laboratory for rabies if a person has been bitten, or has had direct contact with the animal which might result in the person becoming infected. (9-21-92)()

hi. Nothing in these rules is intended or shall be construed to limit the power of any city or county in its

authority to enact more stringent requirements to prevent the transmission of rabies. (11-17-83)

3541. Relapsing Fever. (11-17-83)

a. Each case of relapsing fever shall be reported to the Department or District within one (1) week of identification. (11-17-83)

b. Each report of a case shall be investigated to confirm the diagnosis, determine the extent and source of the outbreak, and to ascertain whether transmission by lice or ticks is likely. (11-17-83)

3642. Reye Syndrome. (9-21-92)

a. Each case of Reye syndrome shall be reported to the Department or District within one (1) week of identification. (9-21-92)

b. Each case shall be investigated to obtain specific clinical information, to learn more about the etiology, risk factors, and means of preventing the syndrome. (9-21-92)

3743. Rocky Mountain Spotted Fever. (11-17-83)

a. Each case of Rocky Mountain spotted fever shall be reported to the Department or District within one (1) week of identification. (11-17-83)

b. Each report shall be investigated to confirm the diagnosis, to identify the source of infection, and to determine if control measures should be initiated. (11-17-83)

3844. Rubella. (11-17-83)

a. Each case or suspected case of rubella (including congenital rubella syndrome) shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis, determine the extent of the outbreak, to identify any contacts who are susceptible, pregnant women, and to document the presence of the congenital rubella syndrome. (11-17-83)

~~e. Newborns with congenital rubella syndrome shall be placed under strict isolation. Other rubella cases in health care facilities shall be placed under respiratory isolation. (11-17-83)~~

~~ed. Persons diagnosed with rubella shall not engage, as long as the disease is in a communicable stage, in any occupation in which there is close contact with children in day care facilities or other persons in schools, health care, or residential care facilities, or with women likely to be pregnant. (11-17-83)~~

~~ee. Any person with rubella, regardless of age, shall not attend or be present in a private, parochial, charter, or public school as long as the disease is in a communicable stage. (11-17-83)(____)~~

~~ef. A person diagnosed with rubella shall not attend or be present in a day care facility as long as the disease is in a communicable form. (11-17-83)~~

3945. Salmonellosis. (11-17-83)

a. Each case of salmonellosis (including typhoid fever) shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

b. Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify contacts, carriers, and the source of contamination. (11-17-83)

~~e. Cases or suspected cases in health care facilities shall be placed under enteric precautions.~~

(11-17-83)

~~dc.~~ Fecally incontinent persons who are excreting Salmonella shall not attend day care facilities unless exemption is obtained from the Department or District. Any exemptions may be based on the absence of symptoms, and the hygiene of the facility and staff. (9-21-92)

~~ed.~~ Persons excreting Salmonella shall be restricted from working as food handlers, and shall not engage in any occupation in which they provide personal care to children in day care facilities or to persons who are confined to health care facilities or residential care facilities unless exemption is obtained from the Department. Any exemption for day care, health care, or residential care facilities may be based on the absence of symptoms and the hygiene of the facility and staff. (9-21-92)

i. The Department or authorized representative for the Department may rescind this restriction on cases other than Salmonella typhi infection provided that two (2) approved fecal specimens, collected not less than twenty-four (24) hours apart, fail to show Salmonella upon testing by a licensed laboratory. (11-17-83)

ii. Any member of a household in which there is a case of non-typhi salmonellosis may not engage in the above occupations until they produce at least one (1) negative fecal specimen ~~is negative~~ for Salmonella testing on examination by a licensed laboratory. (9-21-92)()

~~fe.~~ Identification and management of non-typhi Salmonella typhi carriers. (11-17-83)()

~~i.~~ Any person who excretes Salmonella for more than four (4) weeks and less than one (1) year is defined to be a convalescent carrier. (11-17-83)

ii. Any person who excretes Salmonella for more than one (1) year after onset is defined to be a chronic carrier. (11-17-83)

~~iii.~~ Convalescent carriers may not engage in the occupations listed in Subsection 020.35.e. until Salmonella species is not identified by a licensed laboratory in either of two (2) successive approved fecal specimens collected not less than twenty-four (24) hours apart. (11-17-83)

~~iv.~~ Chronic carriers shall be restricted from working as food handlers, and shall not engage in any occupation in which they provide personal care to children in day care facilities or to persons who are confined to health care facilities or residential care facilities may not engage in the occupations listed in Subsection 020.35.e. until Salmonella species is are not identified by a licensed laboratory in any of three (3) successive approved fecal specimens collected at least seventy-two (72) hours apart. (11-17-83)()

~~gf.~~ Identification and management of typhoid fever cases and carriers. (11-17-83)

i. Any person with typhoid fever shall remain subject to the supervision of the Department or authorized representative of the Department until Salmonella typhi is not isolated by a licensed laboratory from four (4) successive approved fecal specimens. These specimens are to be collected at least twenty-four (24) hours apart and not earlier than one (1) month after onset. (11-17-83)

ii. Any member of a household in which there is a case of salmonella typhi may not engage in the above occupations until at least two (2) fecal specimens are negative for Salmonella testing on examination by a licensed laboratory. ()

iii. All carriers of Salmonella typhi shall abide by the typhoid fever carrier agreement. Failure to abide by the carrier agreement may cause the carrier to be isolated. (11-17-83)

(1) The typhoid carrier agreement is a written agreement between the carrier and the Department. (11-17-83)

(2) The carrier agrees to not work as a food handler, to notify the Department at once of any change in address or occupation, to report to the District immediately any cases of illness suggestive of typhoid fever in his/her

family or among immediate associates, and to furnish specimens for examination in a manner prescribed by the Department. (11-17-83)

~~iii. Convalescent carriers of typhoid fever may be released from the carrier status when Salmonella typhi is not identified by a licensed laboratory from three (3) successive approved fecal specimens collected not more than twenty-four (24) hours apart. (11-17-83)~~

iv. Chronic carriers of typhoid fever may be released from carrier status when Salmonella typhi is not identified by a licensed laboratory in any of six (6) consecutive approved fecal specimens ~~and urine specimens~~ collected at least one (1) month apart. (11-17-83)()

406. Shigellosis. (11-17-83)

a. Each case of shigellosis shall be reported to the Department or District within one (1) week of identification. (9-21-92)

b. Each report of a case shall be investigated to confirm the diagnosis and to determine the extent of the outbreak. An attempt shall be made to identify contacts, carriers, and the source of infection. (11-17-83)

~~e. Persons excreting Shigella in health care facilities shall be placed under enteric precautions. (11-17-83)~~

~~dc.~~ Persons excreting Shigella shall not work as food handlers nor attend day care facilities. They shall not engage in any occupation in which they provide personal care to children in day care facilities or to persons who are confined to health care or residential care facilities unless exemption is obtained from the Department or District. In an outbreak in a facility, a cohort system may be approved. (9-21-92)

i. The Department or authorized representative of the Department may rescind this restriction provided that two (2) approved fecal specimens collected at least twenty-four (24) hours apart fail to show Shigella upon testing by a licensed laboratory. (11-17-83)

ii. No member of the household in which there is a case of shigellosis may engage in any of the above-mentioned occupations unless the Department approves and at least one (1) fecal specimen is negative for Shigella testing on examination by a licensed laboratory. (9-21-92)

417. Streptococcus Pyogenes, Group A, Infections Which Are Invasive Or Result In Rheumatic Fever. (11-17-83)

a. Each case of Streptococcus pyogenes, Group A, infection which is invasive or results in rheumatic fever shall be reported to the Department or District within one (1) week of identification. (9-21-92)

b. Each case ~~may~~ shall be investigated to confirm the diagnosis, to determine if the infection is part of an outbreak, and to identify the source of the infection. (9-21-92)()

c. Infected persons should not attend day care, school, or work in health care facilities until twenty-four (24) hours has elapsed after treatment is initiated, or until the patient is no longer infectious as determined by a physician, District or the Department. (9-21-92)

428. Syphilis. (9-21-92)

a. Each case or suspected case of infectious, or recently infectious, syphilis shall be reported to the Department or District within one (1) week of identification. Cases of late latent syphilis shall be reported to the Department or District within one (1) week of identification. (9-21-92)

b. Each case or suspected case of primary, secondary, or early latent syphilis shall be investigated by a representative of the Department or District after notification has been received. (9-21-92)

c. Each person diagnosed with infectious syphilis shall be required to inform their sexual contacts that they may have been exposed to a sexually transmitted infection (venereal disease), or provide sufficient information so public health officials may locate contacts and assure that each is offered prompt diagnosis and treatment (Section 39-605, Idaho Code). (11-17-83)()

d. A physician may order blood tests for syphilis when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (5-16-90)

439. Tetanus. (9-21-92)

a. Each case of tetanus shall be reported to the Department or District within one (1) week of identification. (11-17-83)

b. Each report of a case shall be investigated to confirm the diagnosis and to determine the immunization status of the case. (9-21-92)

4450. Trichinosis. (11-17-83)

a. Each case of trichinosis shall be reported to the Department or District within one (1) week of identification. (11-17-83)

b. Each report of a case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify the source of infection. (11-17-83)

c. Any identified or suspected source of infection shall be reported to the Department which shall immediately notify the Idaho Department of Agriculture and/or other regulatory agency. (11-17-83)

451. Toxic Shock Syndrome. (11-17-83)

a. Each case of toxic shock syndrome shall be reported to the Department or District within one (1) week of identification. (11-17-83)

b. Each case shall be investigated to obtain specific clinical information on the syndrome to learn more about the etiology of the syndrome, risk factors associated with the syndrome, and means of preventing the syndrome. (11-17-83)

4652. Tuberculosis. (11-17-83)

a. Each case or suspected case of tuberculosis shall be reported to the Department or District within one (1) week of identification. (9-21-92)

b. Each report of a case or suspected case shall be investigated to confirm the diagnosis and to identify contacts, associated cases, and the source of the infection. (11-17-83)

c. Restriction of cases and contacts. (11-17-83)

i. In health care facilities, persons with active pulmonary tuberculosis shall be placed ~~in respiratory isolation~~ under airborne precautions until they have been determined to be noninfectious by the licensed physician, the infection control committee of the facility or the Department. Patients suspected to have pulmonary tuberculosis shall be placed ~~in respiratory isolation~~ under airborne precautions until the diagnosis of infectious pulmonary tuberculosis has been excluded by the attending physician. (9-21-92)()

ii. Patients with infectious pulmonary tuberculosis shall not engage in any occupation in which they have direct contact with students in schools, provide personal care to children in day care facilities, or provide personal care to persons confined to health care or residential care facilities until they have been determined to be noninfectious by their physician. (9-21-92)

iii. Patients with infectious pulmonary tuberculosis may not attend a school or day care facility until they have been determined to be noninfectious by their licensed physician and the Department or District. (9-21-92)

iv. Any member of the household in which there is a case of infectious tuberculosis shall not engage in any occupation in which he provides direct supervision of students in schools, personal care to children in day care facilities, or personal care to persons who are confined to health care or residential facilities, or attend a school or day care facility until he has been determined to be free from communicable tuberculosis. (9-21-92)

d. In the event that a case of communicable tuberculosis is diagnosed in an employee or patient of a health care facility, the facility shall conduct an investigation to identify contacts. The Department or District authorized representative may assist in the investigation. (9-21-92)

4753. Tularemia. (11-17-83)

a. Each case of tularemia shall be reported to the Department or District within one (1) week of identification. (11-17-83)

b. Each report of a case ~~may~~ shall be investigated to confirm the diagnosis and to identify the source of the infection. ~~(9-21-92)~~(____)

c. Any source or suspected source of the infection shall be reported to the Department, which shall notify the Idaho Department of Agriculture. (11-17-83)

4854. Viral Or Aseptic Myocarditis, Encephalitis, And Aseptic Meningitis. ~~(9-21-92)~~(____)

a. Each case of diagnosed or suspected viral or aseptic ~~myocarditis~~, encephalitis, and ~~aseptic~~ meningitis shall be reported within one (1) week of identification. ~~(9-21-92)~~(____)

b. Each report of a case ~~may~~ shall be investigated to confirm the diagnosis, to identify clusters or outbreaks of the infection, and to identify the agent or source of the infection. ~~(9-21-92)~~(____)

4955. Yersiniosis. (11-17-83)

a. Each case of yersiniosis shall be reported to the Department or District within one (1) week of identification. (11-17-83)

b. Each report of a case shall be investigated to confirm the diagnosis and to identify carriers and the source of the infection. (11-17-83)

506. Extraordinary Occurrence Of Illness. (11-17-83)

~~a. Extraordinary occurrence of illness refers to rare communicable diseases and or unusual outbreaks of illness. (11-17-83)~~

~~ia.~~ Some communicable diseases are not endemic in Idaho and are unlikely to be introduced into Idaho, but nonetheless have the potential to be serious when brought into or transmitted in Idaho. (9-21-92)

~~(+)i.~~ Each case shall be investigated to confirm the diagnosis, to determine the extent of the outbreak, and to identify the source of infection. (11-17-83)

~~ib.~~ Extraordinary or unusual outbreaks include illnesses which may be a significant risk to the public, may involve a large number of persons, or are a newly described entity. (9-21-92)

~~(+)i.~~ Cases or suspected cases of extraordinary or unusual illness shall be reported to the Department or District within one (1) working day by the diagnosing person. (9-21-92)

~~(2)ii.~~ Each reported case shall be investigated to determine whether there is a risk to the public and whether intervention by public health agencies is warranted. Evaluation and control measures shall be undertaken in consultation with the Department and other appropriate agencies. The Department or authorized representative of the Department may elect to investigate by conducting special studies as outlined in Section 016. (9-21-92)

547. Severe Or Unusual Reaction To Any Immunization. (9-21-92)()

~~a. A severe reaction to any immunization is any serious or life-threatening condition which results directly from the administration of any immunization against any communicable disease. (9-21-92)~~

~~ba.~~ Each case or suspected case of a severe reaction to any immunization shall be reported by telephone to the Department or District within one (1) working day of identification. (9-21-92)

~~eb.~~ Each case or suspected case shall be investigated to confirm and to document the circumstances relating to the reported reaction. (11-17-83)

578. Food Poisoning And Foodborne Illness. (9-21-92)

a. Each case or suspected case of food poisoning or foodborne illness shall be reported to the Department or District within one (1) working day of identification. (9-21-92)

b. Each report of a case or suspected case of food poisoning or food borne illness may be investigated to confirm the diagnosis, to determine the extent of the outbreak, to identify the source, and to determine if actions need to be taken to prevent additional cases. (11-17-83)

539. Lead Poisoning Or Excess Lead Exposure. (9-21-92)

a. Each case of symptomatic lead poisoning or excess lead exposure as determined by a blood lead level of ten (10) micrograms or more per deciliter (10 ug/dl) of whole blood shall be reported to the Department within one (1) week of identification. (9-21-92)

b. Each case of lead poisoning or excess lead exposure may be investigated to determine the source, and to determine if actions need to be taken to prevent additional cases. (9-21-92)

(BREAK IN CONTINUITY OF SECTIONS)

025. CONTROL OF REPORTABLE AND RESTRICTABLE DISEASES IN CERTAIN FACILITIES.

01. Day Care Facilities. (11-17-83)

a. Day care reportable and restrictable diseases are those diseases that are readily transmissible among children and staff in day care facilities. (11-17-83)

b. Examples of day care restrictable diseases that are reportable include, but are not limited to: (11-17-83)

i. Amebiasis; (11-17-83)

ii. Campylobacteriosis; (11-17-83)

iii. Diphtheria; (11-17-83)

iv. Escherichia coli 0157:H7 and other shiga toxin producing E. coli (STEC); ()

- iv. Giardiasis; (11-17-83)
 - vi. Hepatitis A; (9-21-92)
 - vii. Haemophilus influenzae invasive disease; (9-21-92)
 - viii. Measles; (11-17-83)
 - ~~viii~~ix. Mumps; (11-17-83)
 - ix. Neisseria meningitidis invasive disease; (9-21-92)
 - xj. Pertussis; (11-17-83)
 - xii. Poliomyelitis; (11-17-83)
 - xiii. Rubella; (11-17-83)
 - ~~xiii~~iv. Salmonellosis; (11-17-83)
 - xiv. Shigellosis; (11-17-83)
 - xvi. Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever; (9-21-92)
 - xvii. Tuberculosis; (11-17-83)
 - c. Examples of day care restrictable diseases not on the reportable list include: (11-17-83)
 - i. Chickenpox; (11-17-83)
 - ii. Conjunctivitis; (11-17-83)
 - iii. Cutaneous fungal infections; (11-17-83)
 - iv. Pediculosis; (11-17-83)
 - v. Scabies; (11-17-83)
 - vi. Staphylococcal infections; (11-17-83)
 - vii. Streptococcal pharyngeal infections; (9-21-92)
 - d. A person who is diagnosed to have a day care restrictable disease shall not engage, as long as the disease is in a communicable stage, in any occupation in which there is direct contact with children in a day care facility. (11-17-83)
 - e. A child who is diagnosed to have a day care restrictable disease shall not attend a day care facility as long as the disease is in a communicable stage. This restriction may be removed by the written certification of a licensed physician, public health nurse or school nurse that the person's disease is no longer communicable. (11-17-83)
 - f. When satisfactory measures have been taken to prevent the transmission of disease, the affected child or employee may continue to attend or to work in the day care facility if approval is obtained from the Department or District. (9-21-92)
- 02. Food Service Facilities.** (11-17-83)

a. A person who is diagnosed to have one (1) of the following diseases or conditions which can be transmitted from one (1) person to another through food or beverage shall not work as a food handler as long as the disease is in a communicable stage. These diseases and conditions include, but are not limited to: (11-17-83)

- i. Amebiasis; (11-17-83)
- ii. Campylobacteriosis; (11-17-83)
- iii. Cholera; (11-17-83)
- iv. Diarrhea (until common communicable causes have been ruled out); (11-17-83)
- v. Diphtheria; (11-17-83)
- vi. Escherichia coli 0157:H7 and other shiga toxin producing E. coli (STEC); ()
- vii. Giardiasis; (11-17-83)
- viii. Hepatitis A; (9-21-92)
- ~~viii~~ix. Salmonellosis; (11-17-83)
- ix. Shigellosis; (11-17-83)
- xi. Staphylococcal skin infections; (11-17-83)
- xii. Streptococcal skin infections; (11-17-83)
- xiii. Taeniasis; (11-17-83)
- ~~xiii~~iv. Tuberculosis (active); (11-17-83)
- xiv. Vomiting (until noninfectious cause is identified); (11-17-83)

b. The state health officer or his authorized representative may require a food handler to submit to an examination to determine the presence of a disease that can be transmitted by means of food when there is reasonable cause to believe the food handler is afflicted with a disease listed in this section. (11-17-83)

c. If the person in charge of the eating or drinking establishment has reason to suspect that any employee has a disease listed in Subsection 025.02.a. that is in a communicable form, he must immediately notify the Department or District and obtain guidance on proper actions needed to protect the public. ~~(12-31-91)~~()

03. Schools. (11-17-83)

a. School reportable and restrictable diseases are those diseases that are readily transmissible among students and staff in schools. (11-17-83)

b. Examples of school restrictable diseases that are reportable include, but are not limited to: (11-17-83)

- i. Diphtheria; (11-17-83)
- ii. Escherichia coli 0157:H7 and other shiga toxin producing E. coli (STEC); ()
- iii. Haemophilus influenzae invasive diseases; (9-21-92)

- iii. Measles; (11-17-83)
- iv. Mumps; (11-17-83)
- vi. Neisseria meningitidis invasive disease; (9-21-92)
- vii. Pertussis; (11-17-83)
- viii. Plague; (11-17-83)
- viiii. Rubella; (11-17-83)
- ix. Shigellosis; (11-17-83)
- xi. Streptococcus pyogenes, Group A, infections which are invasive or result in rheumatic fever; (9-21-92)
- xii. Tuberculosis (active); (11-17-83)
- c. Examples of school restrictable diseases not on the reportable list include: (11-17-83)
 - i. Chickenpox; (11-17-83)
 - ii. Conjunctivitis; (11-17-83)
 - iii. Cutaneous fungal infections; (11-17-83)
 - iv. Pediculosis; (11-17-83)
 - v. Scabies; (11-17-83)
 - vi. Staphylococcal skin infections; (11-17-83)
 - vii. Streptococcal pharyngeal infections; (9-21-92)
- d. Any person who is diagnosed to have a school restrictable disease shall not engage, as long as the disease is in a communicable stage, in any occupation that involves direct contact with students in a private, parochial charter, or public school. (~~11-17-83~~)(____)
- e. Any person who is diagnosed with or reasonably suspected to have a school restrictable disease shall not attend a private, parochial, charter, or public school as long as the disease is in a communicable stage. (~~11-17-83~~)(____)
- f. A licensed physician, public health nurse, school nurse or other person authorized by the Department may determine when a person with a school restrictable disease can no longer transmit the disease to others. (11-17-83)
- g. A school administrator must report the closure of any public, parochial, charter, or private school within one (1) working day when, in his opinion, such closing is related to a communicable disease. (~~9-21-92~~)(____)

(BREAK IN CONTINUITY OF SECTIONS)

996. ~~ADMINISTRATIVE PROVISIONS (RESERVED).~~

~~Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000., et seq., "Rules Governing Contested Cases and Declaratory Rulings".~~ (12-31-91)

(BREAK IN CONTINUITY OF SECTIONS)

998. ~~INCLUSIVE GENDER AND NUMBER.~~

~~For the purpose of Idaho Department of Health and Welfare Rules, IDAPA 16.02.10, "Idaho Reportable Diseases," words used in the masculine gender include the feminine and vice-versa where appropriate.~~

(11-17-83)

999. ~~SEVERABILITY.~~

~~The rules of Idaho Department of Health and Welfare Rules, IDAPA 16, Title 02, Chapter 10, "Idaho Reportable Diseases," are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance, is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter.~~

(11-17-83)

998. -- 999. (RESERVED).

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Bulletin Summary of Proposed Rulemaking

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

IDAPA 07 – DIVISION OF BUILDING SAFETY 277 N. 6th St., Boise, ID 83702

Docket No. **07-0107-9901**, Rules Governing Continuing Education Requirements. Clarifies the continuing education requirements for license renewal of journeymen and master electricians. Comment By: 8/25/99.

Docket No. **07-0311-9901**, Rules Governing Manufactured/Mobile Home Licensing. Rule change adds a financial information disclosure form which must be acknowledged and signed by prospective home buyers at the time the initial purchase order is signed for the sale of a new manufactured home. Comment By: 8/25/99.

IDAPA 08 – BOARD OF EDUCATION/DEPARTMENT OF EDUCATION P.O. Box 83720, Boise, Idaho 83720-0037

Docket No. **08-0203-9902**, Rules Governing Thoroughness. Changes conform to recent changes in federal special education laws and regulations. Comment By: 9/15/99.

IDAPA 11 – DEPARTMENT OF LAW ENFORCEMENT P.O. Box 1177, Meridian, Idaho 83680-1177

Docket No. **11-0201-9801**, Rules of the Idaho State Brand Board. Animal Damage Control increased their fee from 3 to 4 cents per head on all livestock. Comment By: 8/25/99.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE P. O. Box 83720, Boise, ID 83720-0036

Docket No. **16-0101-9901**, Rules for the Control of Air Pollution in Idaho. Changes implement EPA's emission guidelines to control the emissions of HMIWIs and certain municipal solid waste landfills. Comment By: 9/10/99.

Docket No. **16-0101-9904**, Rules for the Control of Air Pollution in Idaho. Updates rules to reflect changes in federal regulations that are incorporated by reference. Comment By: 9/10/99.

Docket No. **16-0106-9701**, Solid Waste Management Rules and Standards. Rewrite of chapter defines and clarifies requirements for the management, processing, waste handling, and disposal of non-municipal solid waste. Comment By: 8/25/99

Docket No. **16-0106-9901**, Solid Waste Management Rules and Standards. Proposed repeal of existing chapter. Comment By: 8/25/99.

Docket No. **16-0108-9802**, Rules for Public Drinking Water Systems. Adopts and implements a public drinking water system operator certification program based on EPA guideline standards and would require operators to be certified. Comment By: 8/25/99.

Docket No. **16-0108-9901**, Rules for Public Drinking Water Systems. Conforms to EPA regulations for turbidity standards; requires monitoring of individual filters in treatment plants; sets limits on disinfection byproduct

concentrations in finished drinking water and prescribes treatment techniques for water systems that exceed those limits; requires all community water systems to provide an annual water quality report to their customers; adds new definitions and implements 1998 amendments to the public records statute. Comment By: 8/25/99.

Docket No. **16-0210-9901**, Idaho Reportable Diseases. Changes incorporate new developments in disease reporting that have occurred nationwide. Comment By: 8/25/99.

Docket No. **16-0310-9902**, Rules Governing Medicaid Provider Reimbursement in Idaho. Implements the provisions of Senate Bill 1074 which changes the method of payment for nursing homes in Idaho to a prospective, acuity-based reimbursement system. Comment By: 8/25/99.

Docket No. **16-0319-9901**, Rules Governing Certified Family Homes. Establishes a standard set of requirements for safety, supervision, and care of the elderly or individuals with a physical disability, mental illness, or developmental disability for all residential facilities. Comment By: 8/25/99.

Docket No. **16-0322-9901**, Rules for Licensed Residential and Assisted Living Facilities In Idaho. Establishes a standard set of requirements for safety, supervision, and care of the elderly or individuals with a physical disability, mental illness, or developmental disability for all residential facilities. Comment By: 8/25/99.

**IDAPA 18 – DEPARTMENT OF INSURANCE
P. O. Box 83720, Boise, ID 83720-0043**

Docket No. **18-0126-9901**, Managed Care Reform Act. Implements and interprets the “Any Willing Provider Law” as it relates to Managed Care Organizations. Comment By: 8/26/99.

Docket No. **18-0169-9901**, Rule to Implement the Small Employer Health Insurance Availability Act. Removes language making Small Employer Health Insurance Availability Act provisions applicable to those holding individual policies where premium is paid by employer in whole or part; removes prohibition directed at agents and brokers; removes obsolete provisions concerning small employer health benefit plans. Comment By: 8/25/99.

**IDAPA 22 – IDAHO STATE BOARD OF MEDICINE
PO Box 83720, Boise, ID 83720-0058**

Docket No. **22-0101-9901**, Rules of the Board of Medicine for Licensure to Practice Medicine. Establishes annual continuing medical education (CME) requirements for physicians and CME compliance will be reported on annual license renewal application. Comment By: 8/25/99.

**IDAPA 24 – BUREAU OF OCCUPATIONAL LICENCES
1109 Main Street, Suite 220, Boise, Idaho 83702**

Docket No. **24-1901-9901**, Rules of the Board of Residential Care Facility Administrators. Establishes that the examination will be administered on the second Tuesday in January, April, July and October of each year. Comment By: 8/25/99.

**IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION
PO Box 83720, Boise, ID 83702-5983**

Docket No. **31-7101-9901**, Railroad Clearance Rules. Lowers minimum vertical clearance required over railroad tracks from 23 feet 6 inches to "the vertical clearance required by the owner of the railroad tracks or 22 feet 6 inches, whichever is greater". Comment By: 8/25/99.

**IDAPA 35 – IDAHO STATE TAX COMMISSION
800 Park, Plaza IV, P.O. Box 36, Boise, ID 83722**

Docket No. **35-0102-9901**, Idaho State Sales and Use Tax Rules. Promoters of certain types of events are required to check for Seller's Permits for participating vendors and to issue temporary permits when necessary. Comments By: 8/25/99.

Docket No. **35-0104-9901**, Idaho Estate and Transfer Tax Rules. Updates provisions on electronic funds transfer pursuant to Idaho Code and updates references to rules. Comment By: 8/25/99.

Docket No. **35-0110-9901**, Idaho Cigarette and Tobacco Products Tax Rules. Meets statutory requirement to ascertain the amount of tax paid on cigarettes made by manufacturers who are not participants in the "Master Settlement Agreement". Comment By: 8/25/99.

Docket No. **35-0111-9901**, Idaho Unclaimed Property Rules. Requires payments of abandoned property over \$100,000 be made by electronic funds transfer pursuant to Idaho Code. Comment By: 8/25/99.

PUBLIC HEARINGS - Public Hearings have been scheduled for the following dockets:

State Board of Education

Docket No. **08-0203-9902**, Rules Governing Thoroughness.

Department of Health and Welfare

Docket No. **16-0101-9901** and **16-0101-9904**, Rules for the Control of Air Pollution in Idaho.

Docket No. **16-0106-9701** and **16-0106-9901**, Solid Waste Management Rules and Standards.

Docket No. **16-0319-9901**, Rules Governing Certified Family Homes.

Docket No. **16-0322-9901**, Rules for Licensed Residential and Assisted Living Facilities In Idaho.

Department of Insurance

Docket No. **18-0126-9901**, Managed Care Reform Act.

Please refer to the Idaho Administrative Bulletin, **August 4, 1999, Volume 99-8** for notices and text of all rulemakings, public hearing schedules, governor's executive orders, and agency contact names.

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