

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

August 4, 1999

Volume 99-8

TABLE OF CONTENTS	1
PREFACE	5
<u>IDAPA 07 - DIVISION OF BUILDING SAFETY</u>	
07.01.07 - RULES GOVERNING CONTINUING EDUCATION REQUIREMENTS Docket No. 07-0107-9901 Notice Of Temporary And Proposed Rule	12
07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME LICENSING Docket No. 07-0311-9901 Notice Of Proposed Rule.....	14
<u>IDAPA 08 - IDAHO STATE DEPARTMENT OF EDUCATION</u>	
08.02.03 - RULES GOVERNING THOROUGHNESS Docket No. 08-0203-9902 Notice Of Temporary And Proposed Rule	16
<u>IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT</u>	
11.02.01 - RULES OF THE IDAHO STATE BRAND BOARD Docket No. 11-0201-9801 Notice Of Proposed Rule.....	25
<u>IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE</u>	
16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO Docket No. 16-0101-9901 Notice Of Temporary And Proposed Rule	28
Docket No. 16-0101-9904 Notice Of Proposed Rule.....	45
16.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS Docket No. 16-0106-9701 Notice Of Proposed Rule.....	51
Docket No. 16-0106-9901 Notice Of Proposed Rule.....	78

16.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS	
Docket No. 16-0108-9802	
Notice Of Proposed Rule.....	80
Docket No. 16-0108-9901	
Notice Of Proposed Rule.....	92
16.02.10 - IDAHO REPORTABLE DISEASES	
Docket No. 16-0210-9901	
Notice Of Proposed Rule.....	117
16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO	
Docket No. 16-0310-9902	
Notice Of Temporary And Proposed Rule.....	155
16.03.19 - RULES FOR ADULT FOSTER CARE HOMES IN IDAHO	
Docket No. 16-0319-9601	
Notice Of Pending Rule.....	211
16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES	
Docket No. 16-0319-9901	
Notice Of Temporary And Proposed Rule.....	212
16.03.21 - RULES FOR RESIDENTIAL CARE FACILITIES IN IDAHO	
Docket No. 16-0321-9601	
Notice Of Pending Rule.....	245
16.03.22 - RULES FOR RESIDENTIAL CARE FACILITIES IN IDAHO	
Docket No. 16-0322-9602	
Notice Of Pending Rule.....	246
Docket No. 16-0322-9603	
Notice Of Rescission Of Temporary Rule.....	247
Docket No. 16-0322-9603	
Notice Of Vacation Of Rulemaking.....	248
16.03.22 - RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES IN IDAHO	
Docket No. 16-0322-9901	
Notice Of Temporary And Proposed Rule.....	249
16.04.12 - RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM	
Docket No. 16-0412-9901	
Notice Of Pending Rule.....	311

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE**18.01.26 - MANAGED CARE REFORM ACT**Docket No. **18-0126-9901**

Notice Of Proposed Rule.....312

**18.01.69 - RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH
INSURANCE AVAILABILITY ACT**Docket No. **18-0169-9901**

Notice Of Proposed Rule.....315

**18.01.70 - RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH
INSURANCE AVAILABILITY ACT PLAN DESIGN**Docket No. **18-0170-9901**

Notice Of Temporary Rule.....329

**18.01.73 – RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE
AVAILABILITY ACT PLAN DESIGN**Docket No. **18-0173-9901**

Notice Of Temporary Rule.....332

IDAPA 22 - BOARD OF MEDICINE**22.01.01 - RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE
AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY**Docket No. **22-0101-9901**

Notice Of Proposed Rule.....335

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**24.19.01 - RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS**Docket No. **24-1901-9901**

Notice Of Temporary And Proposed Rule.....339

IDAPA 31 - PUBLIC UTILITIES COMMISSION**31.71.01 - RAILROAD CLEARANCE RULES**Docket No. **31-7101-9901**

Notice Of Proposed Rule.....341

IDAPA 35 - STATE TAX COMMISSION**35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES**Docket No. **35-0102-9901**

Notice Of Temporary And Proposed Rule.....343

35.01.04 - IDAHO ESTATE AND TRANSFER TAX ADMINISTRATIVE RULESDocket No. **35-0104-9901**

Notice Of Proposed Rule.....345

35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULESDocket No. **35-0110-9901**

Notice Of Proposed Rule.....349

35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES
Docket No. **35-0111-9901**
Notice Of Proposed Rule.....351

IDAPA 38 - DEPARTMENT OF ADMINISTRATION
38.05.01 - RULES OF THE DIVISION OF PURCHASING
Docket No. **38-0501-9801**
Notice Of Pending Rule.....352

SUBJECTS AFFECTED INDEX353

BULLETIN SUMMARY OF PROPOSED RULEMAKING361

ABRIDGED CUMULATIVE RULE-MAKING INDEX OF ADMINISTRATIVE RULES.....364

SUBJECT INDEX.....373

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

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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

IDAPA	AGENCY
01	Accountancy, Board of - Administrative Code Volume 1
38	Administration, Department of - Administrative Code Volume 8
02	Agriculture, Idaho Department of - Administrative Code Volume 1
40	Arts, Idaho Commission on the - Administrative Code Volume 8
03	Athletic Commission - Administrative Code Volume 1
04	Attorney General, Office of the - Administrative Code Volume 1
53	Barley Commission, Idaho - Administrative Code Volume 8
51	Beef Council, Idaho - Administrative Code Volume 8
07	Building Safety, Division of - Administrative Code Volume 2
43	Canola and Rapeseed Commission, Idaho - Administrative Code Volume 8
48	Commerce, Idaho Department of - Administrative Code Volume 8
44	Controller, Office of the State - Administrative Code Volume 8
19	Dentistry, Board of - Administrative Code Volume 6
08	Education, Board of - Administrative Code Volume 1
12	Finance, Department of - Administrative Code Volume 2
13	Fish and Game, Department of - Administrative Code Volume 2
14	Geologists, Professional, Board of Registration, - Administrative Code Volume 2
15	Governor, Office of the - Administrative Code Volume 2
16	Health and Welfare, Department of - Administrative Code Volumes 3, 4, 5
45	Human Rights Commission - Administrative Code Volume 8
17	Industrial Commission - Administrative Code Volume 5
18	Insurance, Department of - Administrative Code Volume 6
05	Juvenile Corrections, Department of - Administrative Code Volume 1
09	Labor, Idaho Department of - Administrative Code Volume 2
20	Lands, Department of - Administrative Code Volume 6
11	Law Enforcement, Department of - Administrative Code Volume 2
30	Library, Idaho State - Administrative Code Volume 7
52	Lottery Commission, Idaho State - Administrative Code Volume 8
22	Medicine, Board of - Administrative Code Volume 6
23	Nursing, Board of - Administrative Code Volume 6
24	Occupational Licenses, Board of - Administrative Code Volume 6
25	Outfitters and Guides Licensing Board - Administrative Code Volume 7
50	Pardons and Parole, Commission for - Administrative Code Volume 8
26	Parks and Recreation, Department of - Administrative Code Volume 7
59	PERSI - Public Employees Retirement System of Idaho - Administrative Code Vol. 8
27	Pharmacy, Board of - Administrative Code Volume 7
29	Potato Commission, Idaho - Administrative Code Volume 7
10	Professional Engineers & Land Surveyors, Board of - Administrative Code Volume 2
32	Public Works Contractors State Licenses Board - Administrative Code Volume 7
31	Public Utilities Commission - Administrative Code Volume 7
41	Public Health Districts - Administrative Code Volume 8
33	Real Estate Commission - Administrative Code Volume 7
34	Secretary of State - Administrative Code Volume 7
49	Shorthand Reporters, Board of Certified, - Administrative Code Volume 8
36	Tax Appeals, Idaho Board of - Administrative Code Volume 8
35	Tax Commission, State - Administrative Code Volume 7
39	Transportation, Department of - Administrative Code Volume 8
54	Treasurer, Office of the State - Administrative Code Volume 8
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
37	Water Resources, Department of - Administrative Code Volumes 8
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.

Nolene Weaver
Bureau Chief, Bureau of Special Education
State Department of Education
650 W. State St.
P.O. Box 83720
Boise, ID 83720-0027
Phone: 208-332-6917 Fax: 208-334-4664

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~~ 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 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 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)

~~mk.~~ 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 Ec. (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, 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.

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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
Boise, Idaho 83706-1255
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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.

()

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 (<u>human and animal</u>);	(11-17-83) ()
xxxviii.	Relapsing fever, <u>tick-borne and louse-borne</u> ;	(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)
xliiv.	Syphilis;	(11-17-83)
xliiiv.	Tetanus;	(11-17-83)
xliiv.	Trichinosis;	(11-17-83)
xlv.	Toxic shock syndrome ;	(11-17-83)
xlvii.	Tuberculosis;	(11-17-83)
xlviii.	Tularemia;	(11-17-83)
xlviii.	Viral myocarditis , <u>aseptic encephalitis</u> ; and aseptic meningitis;	(9-21-92) ()
xlix.	Yersinosis.	(11-17-83)
b.	Conditions:	(11-17-83)
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) ()
ii.	Extraordinary occurrence of illness, <u>including unusual clusters of disease</u> .	(11-17-83) ()
iii.	Severe reactions to any immunization .	(11-17-83)
iv.	Food poisoning and foodborne illness.	(11-17-83)
iv.	<u>Hemolytic-uremic syndrome (HUS)</u> .	()
v.	Human Immunodeficiency Virus (HIV) infections including, but not limited to AIDS related complex (ARC) <u>positive HIV tests: HIV Antibody, HIV Antigen, Human Immunodeficiency Virus isolations, other</u>	

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>	()
vii x.	Measles;	(11-17-83)
x.	<u>Neisseria meningitidis invasive disease;</u>	()
viii xi.	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)
xii v.	Salmonellosis (including typhoid fever);	(11-17-83)
xiii 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 ii.	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. ()

ef. 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)
- iv. Cryptosporidium; ()
- vi. ~~Corynebacterium diphtheriae;~~ (~~11-17-83~~)
- vii. 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. | Rubella (including congenital rubella syndrome); | (11-17-83) |
| xvi. | Salmonella typhi infection; | (11-17-83) |
| xvii. | Syphilis; | (11-17-83) |
| xviii. | Extraordinary occurrence of illness; | (11-17-83) |
| xix. | 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)

~~06.~~ **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.~~ **203. 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.~~ **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.~~ **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)

~~ed.~~ 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)(____)~~

~~fe.~~ 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~~. Mumps; (11-17-83)
 - ix. Neisseria meningitidis invasive disease; (9-21-92)
 - x. 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. (~~42-31-91~~)()

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)
- viii. 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).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO
DOCKET NO. 16-0310-9902

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) SB1074; 56-202(f), Idaho Code.

PUBLIC HEARING SCHEDULE: Pursuant to Section 67-5222(2), Idaho Code, 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: These rules implement the provisions of Senate Bill 1074 (1999) which changes the method of payment for nursing homes in Idaho. These Rules become effective on the effective date of the legislation. The new reimbursement methodology changes to a prospective, acuity-based reimbursement system. These changes affect nearly all of the sections of nursing home reimbursement.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to comply with deadlines in amendments to governing law or federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact Robbie Charlton at (208) 364-1809.

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

DATED this 21st day of June, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
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. 16-0310-9902

000. LEGAL AUTHORITY.

Title XIX (Medicaid) of the Social Security Act, as amended, is the basic authority for administration of the federal program (see 42 CFR Part 447). Title 56, Chapter 1, Idaho Code, establishes standards for provider payment. Section 56-202, Idaho Code, provides that the Department is responsible for administering the program. Further it authorizes the Department to take necessary steps for its proper and efficient administration. ~~(42-31-91)(7-1-99)T~~

01. General. (7-1-93)

a. Fiscal administration of the Idaho Title XIX Medicaid Program will be in accordance with these ~~rules and the~~ Federal (42 CFR Part 447 –~~SSA HIM 15~~ Providers Reimbursement Manual (PRM) Part I and Part II, and ~~MSA PRG 19~~ HCFA Publication 15-1 and 15-2, which is hereby incorporated by reference. These materials are available from HCFA, 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the internet @ <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>) and state rules, as amended. The provisions shall apply unless otherwise authorized. ~~This chapter is an outline of the general rules and applications thereof. Questions regarding specifics and exceptions should be directed to the Department.~~ (12-31-91)(7-1-99)T

b. Generally accepted accounting principles, concepts and definitions shall be followed in determining acceptable accounting treatments except as otherwise provided. (1-16-80)

02. ~~Implied Consent Compliance As Condition Of Participation.~~ Compliance with the provisions in this chapter, its amendments, and additions is required for participation in the Idaho Title XIX (Medicaid) Program. (12-31-91)(7-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

002. REIMBURSEMENT PROVISIONS FOR STATE OWNED OR OPERATED ICF/MR FACILITIES. Provisions of these rules do not apply to ICF/MR facilities owned or operated by the state of Idaho. Reimbursement of such facilities will be governed by the principles set forth in ~~HIM 15~~ the PRM, with the exception of depreciation. Assets of such facilities need not be depreciated if they have an acquisition or historical cost of less than five thousand dollars (\$5,000) ~~or less.~~ (7-1-97)(7-1-99)T

003. ADMINISTRATIVE APPEALS. Hearings will be conducted in conformance with IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings And Declaratory Rulings". (7-1-99)T

0034. DEFINITIONS.

01. Accrual Basis. An accounting system based on the matching principle. Revenues are recorded when they are earned; expenses are recorded in the period incurred. (1-16-80)

02. Allowable Cost. Costs which are reimbursable, and sufficiently documented to meet the requirements of audit. (1-16-80)

03. Amortization. The systematic recognition of the declining utility value of certain assets, usually not owned by the organization or intangible in nature. (1-16-80)

04. Appraisal. The method of determining the value of property as determined by a MAI appraisal. The appraisal must specifically identify the values of land, buildings, equipment and goodwill. (9-15-84)

05. Assets. Economic resources of the contractor, recognized and measured in conformity with generally accepted accounting principles. (1-1-82)

06. Bad Debts. Amounts due to provider as a result of services rendered, but which are considered uncollectible. (1-16-80)

07. Bed-Weighted Median. A numerical value determined by arraying the average per diem cost per bed of all facilities from high to low and identifying the bed at the point in the array at which half of the beds have equal or higher per diem costs and half have equal or lower per diem costs. The identified bed is the median bed. The per diem cost of the median bed is the bed-weighted median. (7-1-99)T

078. Beneficiaries. Persons who are eligible for and receive benefits under federal health insurance programs such as Title XVIII and Title XIX. (1-16-80)

089. Betterments. Improvements to assets which increase their utility or alter their use. (1-16-80)

0910. Capitalize. The practice of accumulating expenditures related to long-lived assets which will benefit later periods. (1-16-80)

11. Case Mix Component. The portion of the facility's rate, direct care component, that is determined from quarterly case mix indices. The case mix component of a facility's rate is established at the beginning of each calendar quarter, based on the case mix indices calculated on the picture date of the preceding quarter. (7-1-99)T

12. Case Mix Index. A numeric score assigned to each facility resident, based on the resident's physical and mental condition, which projects the amount of relative resources needed to provide care to the resident. (7-1-99)T

a. Facility Wide Case Mix Index. The average of the entire facility's case mix indices identified at each picture date during the cost reporting period. If case mix indices are not available for applicable quarters due to lack of data, case mix indices from available quarters will be used. (7-1-99)T

b. Medicaid Case Mix Index. The average of the weighting factors assigned to each Medicaid resident in the facility on the picture date, based on their RUG's classification. Medicaid or non-Medicaid status will be based upon information contained in claims and MDS databases. To the extent that Medicaid identifiers are found to be incorrect at the time of the audit, the Department may adjust the Medicaid case mix index and reestablish the reimbursement rate. (7-1-99)T

c. State-Wide Average Case Mix Index. The simple average of all facilities "facility wide" case mix indices used in establishing the reimbursement limitation July 1 of each year. The state-wide case mix index will be calculated annually during each July 1 rate setting. (7-1-99)T

103. Common Ownership. An individual, individuals, or other entities which have equity, or evidence ownership in two (2) or more organizations which conduct business transactions with each other. Common ownership exists when an individual or individuals possess ownership to the extent that significant control can be exercised. (~~1-16-80~~)(7-1-99)T

114. Compensation. The total of all remuneration received, including cash, expenses paid, salary advances, etc. (1-16-80)

15. Control. Control exists where an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution. (7-1-99)T

126. Cost Center. A "collection point" for expenses incurred in the rendering of services, supplies, or material which are related or so considered for cost-accounting purposes. (1-16-80)

17. Cost Component. The portion of the facility's rate that is determined from a prior cost report, including property rental rate. The cost component of a facility's rate is established annually at July 1 of each year. (7-1-99)T

138. Cost Reimbursement System. A method of fiscal administration of Title XIX which compensates the provider on the basis of expenses incurred. (1-16-80)

149. Cost Report. A fiscal year report of provider costs required by the Medicare program and any revenues and supplemental schedules required by the Department. (~~12-28-89~~)(7-1-99)T

1520. Cost Statements. An itemization of costs and revenues, presented on the accrual basis, which is used to determine cost of care for facility services for a specified period of time. These statements are commonly

called income statements. (1-16-80)

21. Costs Related To Patient Care. All necessary and proper costs which are appropriate and helpful in developing and maintaining the operation of patient care facilities and activities. Necessary and proper costs related to patient care are usually costs which are common and accepted occurrences in the field of the provider's activity. They include costs such as depreciation, interest expenses, nursing costs, maintenance costs, administrative costs, costs of employee pension plans, normal standby costs, and others. (7-1-99)T

22. Costs Not Related To Patient Care. Costs which are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Such costs are not allowable in computing reimbursable costs. They include, for example, cost of meals sold to visitors or employees; cost of drugs sold to other than patients; cost of operation of a gift shop; and similar items. Travel and entertainment expenses are not allowable unless it can be specifically shown that they relate to patient care and for the operation of the nursing facility. (7-1-99)T

~~**1623. Customary Charges.**~~ Normal charge for an item or service. Customary charges are the regular rates for various services which are recorded for Medicare beneficiaries and charges to patients liable for such charges. Those charges are to be adjusted downward, where the provider does not impose such charges on most patients liable for payment on a charge basis or, fails to make reasonable collection efforts. The reasonable effort to collect such charges is the same effort necessary for Medicare reimbursement as is needed for unrecovered costs attributable to certain bad debt (see Chapter 3, Sections 310 and 312, PRM). (4-16-80)(7-1-99)T

~~**1724. Day Treatment Services.**~~ Day treatment services are developmental services provided regularly during normal working hours on weekdays by, or on behalf of, the provider. However, day treatment services do not include recreational therapy, speech therapy, physical therapy, occupational therapy, or services paid for or required to be provided by a school or other entity. (7-1-97)

~~**1825. Department.**~~ The Department of Health and Welfare of the state of Idaho. (1-16-80)

~~**1926. Depreciation.**~~ The systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated life of the assets. (1-1-82)

27. Direct Care Costs. Costs directly assigned to the nursing facility or allocated to the nursing facility through the Medicare cost finding principles and consisting of the following: (7-1-99)T

a. Direct nursing salaries which include the salaries of registered nurses, licensed professional nurses, certified nurse's aides, and unit clerks; and (7-1-99)T

b. Routine nursing supplies; and (7-1-99)T

c. Nursing administration; and (7-1-99)T

d. Direct portion of Medicaid related ancillary services; and (7-1-99)T

e. Social services; and (7-1-99)T

f. Raw food; and (7-1-99)T

g. Employee benefits associated with the direct salaries. (7-1-99)T

~~**208. Director.**~~ The Director of the Department of Health and Welfare or his designee. (1-1-82)

~~**219. Equity.**~~ The net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles. (9-15-84)

~~**2230. Facility.**~~ An entity which contracts with the Director to provide services to recipients in a structure owned, controlled, or otherwise operated by such an entity, and which entity is responsible for operational decisions

in conjunction with the use of the term "facility": (1-1-82)

a. The term "Nursing Facility" or "NF" is used to describe all non-ICF/MR facilities certified to provide care to Medicaid and Medicare patients; (2-1-91)

b. "Free-Standing Nursing Facility" means a skilled nursing facility, as defined in and licensed under Chapter 13, Title 39, Idaho Code, which is not owned, managed, or operated by, nor is otherwise a part of a hospital, as defined in Section 39-1301(a), Idaho Code; or (9-28-90)

c. "Hospital-based facility" means a nursing facility, as defined in and licensed under Chapter 13, Title 39, Idaho Code, which is owned, managed, or operated by, or is otherwise a part of a hospital, as defined in Section 39-1301(a), Idaho Code. (7-1-97)

d. "Rural Hospital-Based Nursing Facilities." Those hospital-based nursing facilities not located within metropolitan statistical area (MSA) as defined by the United States Bureau of Census. (7-1-99)T

e. "Urban Hospital-Based Nursing Facilities." Those hospital-based nursing facilities located within a metropolitan statistical area (MSA) as defined by the United States Bureau of the Census. (7-1-99)T

231. Fiscal Year. The business year of an organization. (1-16-80)

2432. Forced Sale. A forced sale is a sale required by a bankruptcy, foreclosure, the provisions of a will or estate settlement pursuant to the death of an owner, physical or mental incapacity of an owner which requires ownership transfer to existing partner or partners, or a sale required by the ruling of a federal agency or by a court order. (11-4-85)

2533. Funded Depreciation. Amounts deposited or held which represent recognized depreciation. (1-16-80)

2634. GAAP. Generally accepted accounting principles, pronounced "gap". (1-16-80)

2735. Generally Accepted Accounting Principles. Those concepts, postulates, axioms, etc., which are considered standards for accounting measurement. (1-16-80)

2836. Goodwill. The amount paid by the purchaser that exceeds the value of the net tangible assets. The value of goodwill is derived from the economic benefits that a going concern may enjoy, as compared with a new one, from established relations in the related markets, with government departments and other noncommercial bodies and with personal relationships. These intangible assets cannot be separated from the business and sold as can plant and equipment. Under the theory that the excess payment would be made only if expected future earnings justified it, goodwill is often described as the price paid for excess future earnings. The amortization of goodwill is nonallowable, nonreimbursable expense. (9-15-84)

307. Historical Cost. The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies. (1-1-82)

318. ICF/MR. An intermediate care facility for the mentally retarded. (9-15-84)

329. ICF/MR Living Unit. The specific property or portion thereof that an ICF/MR uses to house patients. (7-1-97)

3340. Improvements. Improvements to assets which increase their utility or alter their use. (1-16-80)

41. Indirect Care Costs. The following costs either directly coded to the nursing facility or allocated to the nursing facility through the Medicare step-down process described in the PRM: (7-1-99)T

a. Administrative and general care costs: and (7-1-99)T

- b. Activities; and (7-1-99)T
- c. Central service and supplies; and (7-1-99)T
- d. Laundry and linen; and (7-1-99)T
- e. Dietary (non-"raw food" costs); and (7-1-99)T
- f. Plant operations and maintenance (excluding utilities); and (7-1-99)T
- g. Medical records; and (7-1-99)T
- h. Employee benefits associated with the indirect salaries; and (7-1-99)T
- i. Housekeeping; and (7-1-99)T
- j. Other costs not included in direct care costs or costs exempt from cost limits. (7-1-99)T

42. Inflation Adjustment. Cost used in establishing a facility's reimbursement rate shall be indexed forward from the midpoint of the cost report period to the midpoint of the rate year using the inflation factor plus one percent (+1%) per annum. (7-1-99)T

43. Inflation Factor. For use in establishing nursing facility rates, the inflation factor is the Skilled Nursing Facility (SNF) Market Basket as established by Data Resources, Inc. (DRI), or its successor. If subsequent to the effective date of these rules, Data Resources, Inc., or its successor develops an Idaho-specific nursing facility index, it will be used. The Department is under no obligation to enter into an agreement with DRI or its successor to have an Idaho-specific index established. (7-1-99)T

344. Interest. The cost incurred for the use of borrowed funds. (1-16-80)

345. Interest On Capital Indebtedness. The cost incurred for borrowing funds used for acquisitions of capital assets, improvements, etc. These costs are differentiated from those related to current indebtedness by the payback period of the related debt. (1-16-80)

346. Interest On Current Indebtedness. The costs incurred for borrowing funds which will be used for "working capital" purposes. These costs are differentiated from others by the fact that the related debt is scheduled for repayment within one (1) year. (1-16-80)

47. Interest Rate Limitation. The interest rate allowed for working capital loans and for loans for major movable equipment for ICF/MR facilities is the prime rate as published in the western edition of the Wall Street Journal or successor publication, plus one percent (1%) at the date the loan is made. (7-1-99)T

3748. Interim Reimbursement Rate (IRR). A rate paid for each Medicaid patient day which is intended to result in total Medicaid payments approximating the amount paid at audit settlement. The interim reimbursement rate is intended to include any payments allowed in excess of the percentile cap. (10-22-93)

3849. Intermediary. Any organization which administers the Title XIX program; in this case the Department of Health and Welfare. (1-16-80)

3950. Intermediate Care Facility For The Mentally Retarded. A habilitative facility designed and operated to meet the educational, training, habilitative and intermittent medical needs of the developmentally disabled. (9-15-84)

4051. Keyman Insurance. Insurance on owners or employees with extraordinary talents in which the direct or indirect beneficiary is the facility or its owners. (1-16-80)

4152. Lease. A contract arrangement for use of another's property, usually for a specified time period, in

return for period rental payments. (1-16-80)

4253. Leasehold Improvements. Additions, adaptations, corrections, etc., made to the physical components of a building or construction by the lessee for his use or benefit. Such additions may revert to the owner. Such costs are usually capitalized and amortized over the life of the lease. (1-16-80)

4354. Level Of Care. The classification in which a patient/resident is placed following a medical/social review decision. (1-16-80)

4455. Licensed Bed Capacity. The number of beds which are approved by the Licensure and Certification Agency for use in rendering patient care. (1-16-80)

56. Lower Of Cost Or Charges. Payment to providers (other than public providers furnishing such services free of charge or at nominal charges to the public) shall be the lesser of the reasonable cost of such services or the customary charges with respect to such services. Public providers which furnish services free of charge or at a nominal charge shall be reimbursed fair compensation; which is the same as reasonable cost. (7-1-99)T

457. MAI Appraisal. An appraisal which conforms to the standards, practices, and ethics of the American Institute of Real Estate Appraisers and is performed by a member of the American Institute of Real Estate Appraisers. (9-15-84)

4658. Major Movable Equipment. Major movable equipment means such items as beds, wheelchairs, desks, furniture, vehicles, etc. The general characteristics of this equipment are: (12-28-89)

- a. A relatively fixed location in the building; (11-4-85)
- b. Capable of being moved, as distinguished from building equipment; (11-4-85)
- c. A unit cost of five ~~hundred thousand~~ thousand dollars (\$5000) or more; (~~12-31-91~~)(7-1-99)T
- d. Sufficient size and identity to make control feasible by means of identification tags; and (11-4-85)
- e. A minimum life of ~~approximately~~ three (3) years. (~~11-4-85~~)(7-1-99)T

59. Minimum Data Set (MDS). A set of screening, clinical, and functional status elements, including common definitions and coding categories, that forms the foundation of the comprehensive assessment for all residents of long term care facilities certified to participate in Medicare or Medicaid. The version of the document initially used for rate setting is version 2.0. Subsequent versions of the MDS will be evaluated and incorporated into rate setting as necessary. (7-1-99)T

4760. Medicaid. The 1965 amendments to the Social Security Act (P.L. 89-97), as amended. (1-1-82)

61. Medicaid Related Ancillary Costs. For the purpose of these rules, those services considered to be ancillary by Medicare cost reporting principles. Medicaid related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid residents by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid related ancillaries. (7-1-99)T

4862. Minor Movable Equipment. Minor movable equipment includes such items as wastebaskets, bedpans, syringes, catheters, silverware, mops, buckets, etc. Oxygen concentrators used in lieu of bottled oxygen shall, at the facility's option, be considered minor movable equipment with the cost thereof reported as a medical supply. The general characteristics of this equipment are: (12-28-89)

- a. In general, no fixed location and subject to use by various departments of the provider's facility; (11-4-85)
- b. Comparatively small in size and unit cost under five ~~hundred thousand~~ thousand dollars (\$5000);

- ~~(12-31-91)~~(7-1-99)T
- c. Subject to inventory control; (11-4-85)
- d. Fairly large quantity in use; and (11-4-85)
- e. Generally, a useful life of approximately less than three (3) years ~~or less.~~ ~~(11-4-85)~~(7-1-99)T
- 63. Necessary.** The purchase of goods or services that is required by law, prudent management, and for normal, efficient and continuing operation of patient related business. (7-1-99)T
- 4964. Net Book Value.** The historical cost of an asset, less accumulated depreciation. (1-1-82)
- 65. New Bed.** A bed is considered new if it is an additional nursing facility bed that is licensed subsequent to July 1, 1999. (7-1-99)T
- 66. Nominal Charges.** A public provider's charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the related services. (7-1-99)T
- 5067. Nonambulatory.** Unable to walk without assistance. (11-4-85)
- 5468. Nonprofit Organization.** An organization whose purpose is to render services without regard to gains. (1-1-82)
- 69. Normalized Per Diem Cost.** Refers to direct care costs that have been adjusted based on the facility's case mix index for purposes of making the per diem cost comparable among facilities. Normalized per diem costs are calculated by dividing the facility's direct care per diem costs by its facility-wide case mix index, and multiplying the result by the statewide average case mix index. (7-1-99)T
- 5270. Nursing Home Facility.** A "Nursing Facility" or "NF". See facility. (9-28-90)
- 71. Nursing Facility Inflation Rate.** The most specific skilled nursing facility inflation rate applicable to Idaho established by Data Resources, Inc. or its successor. If a state or regional index has not been implemented, the national index will be used. (7-1-99)T
- 72. Ordinary.** Ordinary means that the costs incurred are customary for the normal operation of the business. (7-1-99)T
- 573. Patient Day.** A calendar day of care which will include the day of admission and exclude the day of discharge unless discharge occurs after 3:00 p.m. or it is the date of death, except that, when admission and discharge occur on the same day, one (1) day of care shall be deemed to exist. (1-1-82)
- 74. Picture Date.** A point in time when case mix indices are calculated for every facility based on the residents in the facility on that day. The picture date to be used for rate setting will be the first day of the second month of a quarter. The picture date from that quarter will be used to establish the facility's rate for the next quarter. (7-1-99)T
- 5475. Private Rate.** Rate most frequently charged to private patients for a service or item. (1-16-80)
- 2976. ~~HIM-15~~ PRM.** The Providers Reimbursement Manual, a federal publication which specifies accounting treatments and standards for the Medicare program, HCFA Publications 15-1 and 15-2, which are incorporated by reference into these rules. ~~(1-16-80)~~(7-1-99)T
- 5577. Property Costs.** The total of allowable interest expense, plus depreciation, property insurance, real estate taxes, amortization, and allowable lease/rental expense. The Department may require and utilize an appraisal to establish those components of property costs which are identified as an integral part of an appraisal. (9-15-84)

5678. Property Rental Rate. A rate paid per Medicaid patient day to other than hospital based nursing homes in lieu of reimbursement for property costs other than property taxes, property insurance, and the property costs of major movable equipment at ICF/MR facilities. (7-1-97)

579. Proprietary. An organization operated for the purpose of monetary gains. (1-16-80)

580. Provider. A licensed and certified skilled nursing or intermediate care facility which renders care to Title XIX recipients. (1-16-80)

81. Prudent Buyer. A prudent buyer is one who seeks to minimize cost when purchasing an item of standard quality or specification (PRM, Chapter 2100). (7-1-99)T

82. Public Provider. A public provider is one operated by a federal, state, county, city, or other local government agency or instrumentality. (7-1-99)T

83. Related To Provider. The provider, to a significant extent, is associated or affiliated with, or has control of, or is controlled by, the organization furnishing the services, facilities, or supplies. (7-1-99)T

84. Raw Food. Food used to meet the nutritional needs of the residents of a facility, including liquid dietary supplements, liquid thickeners, and tube feeding solutions. (7-1-99)T

5985. Reasonable Property Insurance. Reasonable property insurance means that the consideration given is an amount that would ordinarily be paid by a cost-conscious buyer for comparable insurance in an arm's length transaction. Property insurance per licensed bed in excess of two (2) standard deviations above the mean of the most recently reported property insurance costs per licensed bed of all facilities in the reimbursement class as of the end of a facility's fiscal year shall not be considered reasonable. (11-4-85)

6086. Recipient. An individual determined eligible by the Director for the services provided in the state plan for Medicaid. (1-1-82)

6487. Related Entities. The provider, to a significant extent, is associated or affiliated with, or is controlled by, or has control of another entity. (1-16-80)

88. Resource Utilization Groups (RUG's). A process of grouping residents according to the clinical and functional status identified by the responses to key elements of the MDS. For purposes of initial rate setting, RUG's III, version 5.12, 34 Grouper, nursing weights only, with index maximization will be used for grouping residents and is hereby incorporated into these rules. The RUG's Grouper is available from HCFA, 7500 Security Blvd., Baltimore, MD, 21244-1850. Subsequent versions of RUG's, or its successor, will be evaluated and may be incorporated into the rate setting process as necessary. (7-1-99)T

6289. Skilled Nursing Care. The level of care for patients requiring twenty-four (24) hour skilled nursing services. (1-16-80)

6390. Skilled Nursing Facility. A nursing care facility licensed by the Department to provide twenty-four (24) hour skilled nursing services and certified as a "Nursing Facility" under Title XVIII. (9-28-90)

6491. Title XVIII. The Medicare program administered by the federal Social Security Administration. (1-16-80)

6592. Title XIX. The medical assistance program known as Medicaid administered by the state of Idaho, Department of Health and Welfare. (1-16-80)

6693. Utilities. All expenses for heat, electricity, water and sewer. (9-15-84)

(BREAK IN CONTINUITY OF SECTIONS)

050. CRITERIA FOR PARTICIPATION IN THE IDAHO TITLE XIX PROGRAM.

01. Application For Participation And Reimbursement. Prior to participation in the Medicaid Program the Licensure and Certification Section of the Division of Health, Department of Health and Welfare or its successor organization, certifies a facility for participation in the Program. Their recommendations are forwarded to the Division of Welfare, ~~Bureau Division~~ of Medicaid ~~Policy~~ or its successor organization, for approval. The ~~Bureau Division~~ of Medicaid ~~Policy~~ or its successor organization issues a provider number to the facility which becomes the primary provider identification number. The ~~Bureau Division~~ of Medicaid ~~Policy~~ or its successor organization will need to establish an interim rate for the new applicant facility. This facility is now authorized to offer services at the level for which the provider agreement was issued. ~~(12-31-91)~~(7-1-99)T

02. Reimbursement. The reimbursement mechanism for payment to provider facilities is specified in Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, "Rules Governing Medical Assistance". The Medical Assistance Program will not reimburse a facility until it is certified, has a signed agreement for participation and an established interim per diem rate. (4-28-89)

(BREAK IN CONTINUITY OF SECTIONS)

062. PROPERTY REIMBURSEMENT TO INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICF/MR CLASS).

Beginning October 1, 1996, property costs of an ICF/MR shall be reimbursed in accordance with Section 060 of these rules except as follows: (7-1-97)

01. Restrictions. No grandfathered rates or lease provisions other than lease provisions in Section 062 of these rules will apply to ICF/MR facilities. (7-1-97)

02. Home Office And Day Treatment Property Costs. Distinct parts of buildings containing ICF/MR living units may be used for home office or day treatment purposes. Reimbursement for the property costs of such distinct parts may be allowed if these areas are used exclusively for home office or day treatment services. The portion of property cost attributed to these areas may be reimbursed as part of home office or day treatment costs without a reduction in the property rental rate. Reimbursement for home office and day treatment property costs shall not include costs reimbursed by, or covered by the property rental rate. Such costs shall only be reimbursed as property cost if the facility clearly included space in excess of space normally used in such facilities. At a minimum to qualify for such reimbursement, a structure would have square feet per licensed bed in excess of the average square feet per licensed bed for other ICF/MR living units within four (4) licensable beds. (7-1-97)

03. Leases For Property. Beginning October 1, 1996, ICF/MR facilities with leases will be reimbursed as follows: (7-1-97)

a. The property costs related to ICF/MR living units other than costs for major movable equipment will be paid by a property rental rate in accordance with Sections 060 and 062 of these rules. (7-1-97)

b. Leases for property other than ICF/MR living units will be allowable based on lease cost to the facility not to exceed a reasonable market rate, subject to other provisions of this chapter, and ~~HIM-15 PRM~~ principles including principles associated with related property leases. ~~(7-1-97)~~(7-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

100. REASONABLE COST PRINCIPLES.

01. Principle. To be allowable, costs must be reasonable, ordinary, necessary and related to patient care. It will be expected that providers will incur costs in such a manner that economical and efficient delivery of quality health care to beneficiaries will result. (1-16-80)

~~**02. Definitions.**~~ (7-1-93)

~~a. Reasonable means that the consideration given is an amount that would ordinarily be paid for comparable goods and services in an arms-length transaction.~~ (1-16-80)

~~b. Ordinary means that the costs incurred are customary for the normal operation.~~ (1-16-80)

~~e. Necessary means that the services or goods purchased are required by law, prudent management, and for the normal operation of patient related business.~~ (1-16-80)

032. Application. (12-31-91)

a. Reasonable costs of any services are determined in accordance with rules found in Sections 250 through 299 and ~~Health Insurance Provider Reimbursement Manual 15 (HIM 15) (PRM)~~, Sections 100 through 2600, as modified by the exceptions contained herein, is used to identify cost items to be included on Idaho's Uniform Cost Report. (12-31-91)(7-1-99)T

i. Reasonable cost takes into account both direct and indirect costs of providers of services, including normal standby costs. (1-16-80)

ii. The objectives of these methods are that: first, the costs with respect to individuals covered by the program will not be borne by others not so covered. Second, the costs with respect to individuals not covered will not be paid by the program. (1-16-80)

b. Costs may vary from one institution to another because of a variety of factors. It is the intent of the program that providers will be reimbursed the actual operating costs of providing high quality care, unless such costs exceed the applicable maximum base rate developed pursuant to provisions of Title 56, Idaho Code, or are unallowable by application of promulgated regulation. (11-4-85)

c. Implicit in the intention that actual operating costs be paid to the extent they are reasonable is the expectation that the provider seeks to minimize its costs and that its actual operating costs do not exceed what a prudent and cost-conscious buyer pays for a given item or service. (11-4-85)

d. If costs are determined to exceed the level that such buyers incur, in the absence of clear evidence that the higher costs were unavoidable, the excess costs are not reimbursable. (1-16-80)

043. Costs Related To Patient Care. These include all necessary and proper costs in developing and maintaining the operation of patient care facilities. Necessary and proper costs related to patient care are usually costs which are common and accepted occurrences in the field of the provider's activity. They include costs such as depreciation, interest expense, nursing costs, maintenance costs, administrative costs, costs of employee pension plans, normal standby costs, and others. Example: Depreciation is a method of systematically recognizing the declining utility value of an asset. To the extent that the asset is related to patient care, reasonable, ordinary, and necessary, the related expense is allowable when reimbursed based on property costs according to other provisions of this chapter. Property related expenses are likewise allowable. (12-31-91)

054. Costs Not Related To Patient Care. Costs not related to patient care are costs which are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Such costs are not allowable in computing reimbursable costs. Example: Fines are imposed for late remittance of federal withholding taxes. Such fines are not related to patient care, are not necessary, and are not reflective of prudent cost conscious management. Therefore, such fines and penalties are not allowable. (1-1-82)

065. Form And Substance. Substance of transactions will prevail over the form. Financial transactions will be disallowed to the extent that the substance of the transaction fails to meet reasonable cost principles or comply with rules and policy. Example: Lease-Purchase agreements are contracts which are executed in the form of a lease. The wording of the contract is couched in such a manner as to give the reader the impression of a true rental-type lease. However, the substance of this contract is a purchase of the property (see Subsection 354.04.c.iii.). If a lease contract is found to be in substance a purchase, the related payments are not allowable as lease or rental expense. (12-31-91)

(BREAK IN CONTINUITY OF SECTIONS)

110. ALLOWABLE COSTS.

Below is a list of the normally allowable costs, and the related definitions and explanations, which includes, but is not limited to, the following items: (7-1-97)

01. Auto And Travel Expense. Expense of maintenance and operation of a vehicle and travel expense related to patient care are reimbursable. The allowance for mileage reimbursement will not exceed the amount determined reasonable by the Internal Revenue Service for the period being reported on. Meal reimbursement will be limited to the amount that would be allowed by the state for a Department employee. Entertainment expense is allowable only if documentation is provided naming the individuals and stating the purpose of the meeting. Entertainment expense is allowable only for patient care related purposes. (7-1-97)

02. Bad Debts. Payments for efforts to collect past due Title XIX accounts are reimbursable. This may include the fees for lawyers and collection agencies. Other allowances for bad debt and bad debt write-off are not allowable. However, Title XIX coinsurance amounts are one hundred percent (100%) reimbursable (~~HIM-15 PRM, Section 300.~~ ~~(1-16-80)~~(7-1-99)T

03. Bank And Finance Charges. Charges for routine maintenance of accounts are allowable. Penalties for late payments, overdrafts, etc., are not allowable. (1-16-80)

04. Contracted Service. All services which are received under contract arrangements are reimbursable to the extent that they are related to patient care or the sound conduct and operation of the facility. (1-16-80)

05. Depreciation. Depreciation on buildings and equipment is an allowable property expense for hospital-based facilities. Depreciation expense is not allowable for land. Lease-hold improvements may be amortized. Generally, depreciation and amortization must be calculated on a straight line basis and prorated over the estimated useful life of the asset. (10-22-93)

06. Employee Benefits. Employee benefits including health insurance, vacation, and sick pay are allowable to the extent of employer participation. See ~~HIM-15 PRM, Chapter 21 for specifics.~~ ~~(1-16-80)~~(7-1-99)T

07. Insurance. Premiums for insurance on assets or for liability purposes, including vehicles, are allowable to the extent that they are related to patient care. (1-16-80)

08. Interest. Interest on working capital loans is an allowable administrative expense. When property is reimbursed based on cost, interest on related debt is allowable. However, interest payable to related entities is not normally an allowable expense. Penalties are not allowable. (7-1-97)

09. Lease Or Rental Payments. Payments for the property cost of the lease or rental of land, buildings, and equipment are allowable according to Medicare reasonable cost principles when property is reimbursed based on cost for leases entered into before March 30, 1981. Such leases entered into on or after March 30, 1981, shall be reimbursed in the same manner as an owned asset. The cost of leases related to home offices and ICF/MR day treatment services shall not be reported as property costs and shall be allowable based on reasonable cost principles subject to other limitations contained herein. (7-1-97)

- 10. Payroll Taxes.** The employer's portion of payroll taxes is reimbursable. (1-6-80)
- 11. Property Costs.** Property costs related to patient care are allowable subject to other provisions of this chapter. Property taxes and reasonable property insurance are allowable for all facilities. A property rental rate will be paid in lieu of costs in some circumstances according to other provisions of these rules. (7-1-97)
- 12. Property Insurance.** Property insurance per licensed bed is limited to no more than two (2) standard deviations above the mean of the most recently reported property insurance costs, as used for rate setting purposes, per licensed bed of all facilities in the reimbursement class of the end of a facility's fiscal year. (11-4-85)
- 13. Repairs And Maintenance.** Costs of maintenance and minor repairs are allowable when related to the provision of patient care. (1-16-80)
- 14. Salaries.** Salaries and wages of all employees engaged in patient care activities or overall operation and maintenance of the facility, including support activities of home offices, shall be allowable. (1-16-80)
- 15. Supplies.** Cost of supplies used in patient care or providing services related to patient care are allowable. (1-16-80)
- 16. Taxes.** Property taxes on assets used in rendering patient care are allowable. Other taxes may be allowable. Specifics are covered in the Provider Reimbursement Manual, ~~SSA-HIM-15 PRM~~, Chapter 21. Tax penalties are not allowable. ~~(1-1-82)~~(7-1-99)T
- 17. Compensation Of Owners.** An owner may receive reasonable compensation for services subject to the limitations in this chapter, to the extent the services are actually performed, documented, reasonable, ordinary, necessary, and related to patient care. Allowable compensation shall not exceed the amount necessary to attract assistance from parties not related to the owner to perform the same services. The nature and extent of services must be supported by adequate documentation including hours performing the services. Where an average industry wide rate for a particular function can be determined, reported allowable owner compensation shall not exceed the average rate. Compensation to owners, or persons related to owners, providing administrative services is further limited by provisions in Sections 402 and 403 of these rules. In determining the reasonableness of compensation for services paid to an owner or a person related to an owner, compensation is the total of all benefits or remuneration paid to or primarily for the benefit of the owner regardless of form or characterization. It includes, but is not limited to, the following: (7-1-97)
- a. Salaries wages, bonuses and benefits which are paid or are accrued and paid for the reporting period within one (1) month of the close of the reporting period. (7-1-97)
 - b. Supplies and services provided for the owner's personal use. (1-16-80)
 - c. Compensation paid by the facility to employees for the sole benefit of the owner. (1-16-80)
 - d. Fees for consultants, directors, or any other fees paid regardless of the label. (1-16-80)
 - e. Keyman life insurance. (1-16-80)
 - f. Living expenses, including those paid for related persons. (1-16-80)

(BREAK IN CONTINUITY OF SECTIONS)

115. NONALLOWABLE COSTS.

In the absence of convincing evidence to the contrary, expenses listed below will be considered nonreimbursable. (1-16-80)

01. **Charity Allowances.** Cost of free care or discounted services. (1-16-80)
02. **Nonpatient Care Related Activities.** All activities not related to patient care. (1-16-80)
03. **Accelerated Depreciation.** Depreciation in excess of straight line except as otherwise provided (see Subsection 354.04.c.ii.). (12-31-91)
04. **Related Party Interest.** Interest on related party loans (see ~~HIM-15 PRM~~, Sections 218.1 and 218.2). ~~(1-16-80)~~(7-1-99)T
05. **Related Party Nonallowable Costs.** All costs not allowable to providers are not allowable to a related party, whether or not they are allocated. (1-16-80)
06. **Acquisitions.** Cost of corporate acquisitions, e.g., purchase of corporate stock as an investment. (1-16-80)
07. **Holding Companies.** All home office costs associated with holding companies are not allowable (~~HIM-15 PRM~~, Section 2150.2A). ~~(1-16-80)~~(7-1-99)T
08. **Related Party Refunds.** All refunds, allowances, terms, etc., shall be deemed to be allocable to the members of related organizations, on the basis of their participation in the related purchases, costs, etc. (1-16-80)
09. **Fund Raising.** Certain fund raising expenses (~~HIM-15 PRM~~, Section 2136.2). ~~(1-16-80)~~(7-1-99)T
10. **Vending Machines.** Costs of vending machines. Barber and beauty shops. (1-16-80)
11. **Organization.** Organization costs (see ~~HIM-15 PRM~~, Section 2134 and subsections of Section 2134 for specifics). ~~(1-16-80)~~(7-1-99)T
12. **Fees.** Franchise fees (~~HIM-15 PRM~~, Section 2133.1). ~~(1-16-80)~~(7-1-99)T
13. **Medicare Costs.** All costs of Medicare Part A or Part B services incurred by Medicare certified facilities, including the overhead costs relating to these services. (7-1-98)
14. **Yellow Pages Advertising.** Telephone book yellow page advertising costs in excess of the base charge for a quarter column advertisement for each telephone book advertised in. (1-1-82)
15. **Consultant Fees.** Costs related to the payment of consultant fees in excess of the lowest rate available to a facility. It is the provider's responsibility to make efforts to obtain the lowest rate available to that facility. The efforts may include personally contacting possible consultants and/or advertising. The lowest rate available to a facility is the lower of the actual rate paid by the facility or the lowest rate available to the facility, as determined by departmental inquiry directly to various consultants. Information obtained from consultants will be provided to facilities. Costs in excess of the lowest rate available will be disallowed effective thirty (30) days after a facility is notified pursuant to Subsection 115.15.b., unless the provider shows by clear and convincing evidence it would have been unable to comply with state and federal standards had the lowest rate consultant been retained or that it tried to but was unable to retain the lowest rate consultant. This Subsection in no way limits the Department's ability to disallow excessive consultant costs under other Sections of this chapter, such as Section 100 or 121, when applicable. (7-1-97)
16. **Goodwill.** Costs associated with goodwill as defined in Subsection 003.27 of these rules. (7-1-97)
17. **Interest.** Interest to finance nonallowable costs. (7-1-97)
18. **Property Costs.** Costs reimbursed based on a property rental rate according to other provisions of these rules. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

150. RELATED PARTY TRANSACTIONS.

01. Principle. Costs applicable to services, facilities and supplies furnished to the provider by organizations or persons related to the provider by common ownership, control, etc., are allowable at the cost to the related party. Such costs are allowable to the extent that they relate to patient care, are reasonable, ordinary, and necessary, and are not in excess of those costs incurred by a prudent cost-conscious buyer. (1-16-80)

02. Cost Allowability - Regulation. Allowability of costs is subject to the regulations prescribing the treatment of specific items as outlined in 42 CFR 413.17, et al, and the Providers Reimbursement Manual, ~~SSA-HIM PRM~~ Chapter 10 and other applicable chapters of ~~HIM-15~~ the PRM. (7-1-97)(7-1-99)T

~~151. DEFINITIONS.~~

~~**01. Reasonable.** The consideration given for goods or services in the amount that would be acceptable to an independent buyer and seller in the same transaction. (1-16-80)~~

~~**02. Necessary.** The purchase that is required for normal, efficient and continuing operation of the business.— (1-16-80)~~

~~**03. Costs Related To Patient Care.** All necessary and proper costs which are appropriate and helpful in developing and maintaining the operation of patient care facilities and activities. Necessary and proper costs related to patient care are usually costs which are common and accepted occurrences in the field of the provider's activity. They include costs such as depreciation, interest expenses, nursing costs, maintenance costs, administrative costs, costs of employee pension plans, normal standby costs, and others. (1-16-80)~~

~~**04. Costs Not Related To Patient Care.** Costs which are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Such costs are not allowable in computing reimbursable costs. They include, for example, cost of meals sold to visitors or employees; cost of drugs sold to other than patients; cost of operation of a gift shop; and similar items. Travel and entertainment expenses are not allowable unless it can be specifically shown that they relate to patient care and for the operation of the nursing home.— (1-16-80)~~

~~**05. Related To Provider.** The provider, to a significant extent, is associated or affiliated with, or has control of, or is controlled by, the organization furnishing the services, facilities, or supplies. (1-16-80)~~

~~**06. Common Ownership.** Exists when an individual or individuals possess ownership to the extent that significant control can be exercised. (1-16-80)~~

~~**07. Control.** Exists where an individual or an organization has the power, directly or indirectly, significantly to influence or direct the actions or policies of an organization or institution. (1-16-80)~~

~~**08. Prudent Buyer.** A prudent buyer is one who seeks to minimize cost when purchasing an item of standard quality or specification (SSA-HIM-15, Chapter 2100). (1-16-80)~~

1521. APPLICATION.

01. Determination Of Common Ownership Or Control In The Provider Organization And Supply Organization. In determining whether a provider organization is related to a supplying organization, the tests of common ownership and control are to be applied separately. If the elements of common ownership or control are not present in both organizations, the organizations are deemed not to be related to each other. (1-16-80)

a. Common Ownership Rule. A determination as to whether an individual(s) possesses ownership or equity in the provider organization and the supplying organization, so that the organizations will be considered to be related by common ownership, will be made on the basis of the facts and circumstances in each case. (1-1-82)

b. Control Rule. The term "control" includes any kind of control whether or not it is legally enforceable and however it is exercisable or exercised. It is the reality of the control which is decisive, not its form or the mode of its exercise (see control definition in Subsection 151.07). (12-31-91)

02. Cost To Related Organizations. The charges to the provider from related organizations may not exceed the billing to the related organization for these services. (1-16-80)

03. Costs Not Related To Patient Care. All home office costs not related to patient care are not allowable under the Program. (1-16-80)

04. Interest Expense. Generally, interest expense on loans between related entities will not be reimbursable. See ~~HIM-15 PRM~~ and Chapters 2, 10 and 12 for specifics. ~~(1-16-80)~~(7-1-99)T

1532. EXCEPTION TO THE RELATED ORGANIZATION PRINCIPLE.

An exception is provided to the general rule applicable to related organizations. The exception applies if the provider demonstrates by convincing evidence to the satisfaction of the intermediary. (1-16-80)

01. Supplying Organization. That the supplying organization is a bona fide separate organization. (1-16-80)

02. Nonexclusive Relationship. That a substantial part of the supplying organization's business activity of the type carried on with the provider is transacted with other organizations not related to the provider and the supplier by common ownership or control and there is an open, competitive market. (1-16-80)

1543. SALES AND RENTAL OF HOSPITALS OR EXTENDED CARE FACILITIES.

The exception is not applicable to sales, lease or rentals of hospital facilities and nursing homes or extended care facilities. These transactions would not meet the requirement that there be an open, competitive market for the facilities furnished (~~HIM-15 PRM~~, Sections 1008 and 1012). ~~(1-16-80)~~(7-1-99)T

01. Rentals. Rental expense for transactions between related entities will not be recognized. Costs of ownership will be allowed. (1-16-80)

02. Purchases. When a facility is purchased from a related entity, the purchaser's depreciable basis shall not exceed the seller's net book value (~~HIM-15 PRM~~, Section 1005). ~~(1-16-80)~~(7-1-99)T

1554. INTEREST EXPENSE.

Generally interest on loans between related entities is not an allowable expense. The loan will usually be considered invested capital. See ~~HIM-15 PRM~~, Chapter 2 for specifics. ~~(1-16-80)~~(7-1-99)T

1565. -- 199. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

202. APPLICATION.

01. Cost Report Requirements. The fiscal year end cost report filing must include: (12-28-89)

a. Annual income statement (two (2) copies); (1-16-80)

b. Balance sheet; (1-16-80)

c. Statement of ownership; (1-16-80)

- d. Schedule of patient days; (1-16-80)
- e. Schedule of private patient charges; (1-16-80)
- f. Statement of additional charges to residents over and above usual monthly rate; and (1-16-80)
- g. Other schedules, statements, and documents as requested. (1-16-80)
- 02. Cost Statement Requirements.** Quarterly and short period cost statement filings must include: (12-28-89)
 - a. Filed not later than sixty (60) days after the close of the period. Reports received after this time will be accepted at the option of the Department. (1-16-80)
 - b. Statement of current costs to include at least one (1) quarter (or adjusted quarter, if applicable). Statement may also be filed for any period beginning and ending with quarters of the provider's fiscal year. Other reporting period may be requested. (1-16-80)
 - c. Schedule of patient days. (1-16-80)
 - d. Schedule of all patient charges. (1-16-80)
 - e. Other schedules, statements, and clarifications as requested. (1-16-80)
- 03. Special Reports.** Special reports may be required. Specific instructions will be issued, based upon the circumstance. (1-16-80)
- 04. Criteria.** All reports must meet the following criteria: (1-16-80)
 - a. State approved formats must be used. (1-16-80)
 - b. Presented on accrual basis. (1-16-80)
 - c. Prepared in accordance with generally accepted accounting principles and principles of reimbursement. (1-16-80)
 - d. Appropriate detail must be provided on supporting schedules or as requested. (1-1-82)
- 05. Preparer.** It is not required that any statement be prepared by an independent, licensed or certified public accountant. (1-16-80)
- 06. Reporting By Chain Organizations Or Related Party Providers.** Section 2141.7, ~~SSA-HM-15 PRM~~, "Providers Reimbursement Manual" prohibits the filing of combined or consolidated cost reports as a basis for cost reimbursement. Each facility so related must file a separate set of reports. These cost reports will be required for each level of organization that allocates expenses to the provider. Consolidated financial statements will be considered supplementary information and are not acceptable as fulfilling the primary reporting requirements. ~~(1-16-80)~~(7-1-99)T
- 07. Change Of Management Or Ownership.** To properly pay separate entities or individuals when a change of management or ownership occurs, the following requirements shall be met: (1-16-80)
 - a. Outgoing management or administration shall file an adjusted-period cost report. This report shall meet the criteria for annual cost reports, except that it shall be filed not later than sixty (60) days after the change in management or ownership. (12-28-89)
 - b. Incoming managers or owners shall be required to report on the same basis as a new provider (see Section 203). (12-31-91)

- c. The Department may require an appraisal at the time of a change in ownership. (9-15-84)

203. REPORTING PERIOD.

When required for establishing rates, ~~New~~ providers will be required to submit three (3) quarterly cost statements, including one (1) adjusted-quarter report (if applicable), before the annual reporting option may be exercised. If a provider enters the program at some point in midquarter, his first quarter reporting dates will be adjusted to reflect not less than two (2) months operation nor more than four (4). Thereafter the normal reporting period would apply. If a provider withdraws from the program and subsequently re-enters, the new provider reporting requirements will apply. ~~(4-28-89)~~ (7-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

208. REPORTING FORMS.

Unless prior approval is granted, only state forms will be acceptable. Requests for approval of alternate forms must be in writing accompanied by samples. Such requests will not be considered adequate reason for late filing, or granting of a waiver, except in extraordinary circumstances as determined by the intermediary. Following is a partial listing of the account titles used on the state forms. Included also is an explanation of the classification and reporting standards applicable to that account. The report form may be revised periodically to meet changing Department and provider needs and may be in electronic format at the discretion of the Department. Reported costs shall only include allowable costs unless the Department structures the report to remove nonallowable costs by cost groupings, in which case, reported total and subtotal costs shall reflect net allowable costs except for the nonreimbursable section of the report. (7-1-97)

01. Revenues. The categories are self-explanatory. They are intended to give sufficient breakdown of revenues to effect the reasonable cost principles embodied in the cost reporting system. Facilities may also use the cost center approach of the statement to evaluate the expense of certain cost centers in respect to their revenue. (1-16-80)

02. Expenses. (7-1-93)

a. Administrative. (12-31-91)

i. Salaries: Administrator. Included in this category are salaries paid for administrators and assistant administrators of the facility. Any compensation in excess of the amount allowable under other provisions of this chapter shall be entered in the nonreimbursable Section of the cost statement (see Subsection 110.17 of these rules). (7-1-97)

ii. Salaries: Office and Clerical. Salaries and wages paid to clerks, bookkeepers, and others whose duties relate to overall operation of the facility, should be included in this account. (1-16-80)

iii. Payroll Taxes. The provider's portion of payroll taxes for all employees except those taxes related to the payroll for persons providing day treatment services to ICF/MR patients shall be included in the report categories provided for such costs. Payroll taxes for employees providing day treatment services to ICF/MR patients shall be reported in categories provided for these expenses. Self employment taxes related to owners are nonallowable and should not be included. (7-1-97)

iv. Employee Benefits. Expenses incurred such as sick pay and vacation pay should be included in this account except for those expenses relating to persons providing day treatment services for ICF/MR patients. Employee benefits for these employees should be reported in cost categories provided for those expenses. (7-1-97)

v. Accounts Collections. The expenses related to collection of past due program accounts such as legal fees, bill collectors, etc., are allowable. Allowances for bad debts and bad debt write-off are not allowable, and should be included in the Section titled Nonreimbursable Expenses. (4-28-89)

- vi. Auto and Travel. These expenses shall be those incurred in the operation of vehicles and other travel expense related to patient care. Normally, entertainment shall not be involved, but shall be recorded in the Section under Nonreimbursable Expenses (see ~~HIM-15~~ PRM, Chapter 21). (~~1-16-80~~)(7-1-99)T
- vii. Bank and Finance Charges. Normally recurring minor charges for handling of accounts shall be included here. (1-16-80)
- viii. Dues, Licenses and Subscriptions. Subscriptions to periodicals related to patient care or for general patient use, license fees (not including franchises), and dues to professional health care organizations are to be included. Dues, tuitions and educational fees to facilitate quality health care services are includable where the provisions of ~~HIM-15~~ PRM, Section 400, are met. (~~1-16-80~~)(7-1-99)T
- ix. Employee Recruitment. Costs of advertising for new employees shall be recorded in this account including applicable entertainment costs. (1-16-80)
- x. Home Office Costs. Costs allocated by related entities for various services shall be included in this account. (1-16-80)
- xi. Malpractice/Public Liability Insurance. Premiums for malpractice and public liability insurance shall be included in this account. (1-16-80)
- xii. Purchased Services. Costs of legal, accounting, and management services (not including related entities) for overall operations shall be included in this account. (1-16-80)
- xiii. Supplies and Rentals. Cost of supplies, postage, ledger sheets, and rental of minor office equipment shall be included in this account. (1-16-80)
- xiv. Telephone and Communications. Cost of telephone and related communications shall be included in this account. (1-16-80)
- xv. Interest, Working Capital. Allowable interest expense for loans not related specifically to the purchase of the real or personal property of the provider shall be reported here. (1-1-82)
- xvi. Miscellaneous. Any expense not properly allocable to other cost centers and not properly classified in other classification of administration expenses shall be included here. (1-16-80)
- b. Property. Property costs shall be reported by all facilities including those facilities which are reimbursed a property rental rate. (11-4-85)
- i. Amortization. Amortization of leasehold improvements shall be included here. Certain others may be included here also. (1-16-80)
- ii. Depreciation on Fixed Assets. Depreciation expenses for buildings and fixtures should be included here. Any depreciation in excess of straight line AHA lives shall not be included unless otherwise waived by the Department. Such excess shall be included in the Section of Nonreimbursable Expenses. (7-1-97)
- iii. Depreciation of Equipment. Depreciation expense for moveable equipment shall be included here. Excess depreciation as defined above shall be included in the Nonreimbursable Section (see Subsection 354.04.c.). (12-31-91)
- iv. Interest Expense. Interest expense related to purchase of land, buildings and equipment related to patient care shall be included here only if it is payable to unrelated entities. Generally, interest payable to related entities shall be included in the Nonreimbursable Section (~~HIM-15~~ PRM, Section 202.3). (~~1-1-85~~)(7-1-99)T
- v. Insurance. Insurance premiums for property insurance such as fire and glass shall be includable here. (1-16-80)

- vi. Lease and Rental Payments. Payments for lease or rental of buildings, land and for equipment shall be includable here. (1-16-80)
- vii. Taxes. Taxes on property related to patient care shall be recorded in this account. (1-16-80)
- c. Patient Care Service. (1-16-80)
 - i. Nursing Care. (1-16-80)
 - (1) Salaries. Director of Nursing. Salaries or wages of the Director of Nursing shall be included here. (1-16-80)
 - (2) Registered Nurse. Salaries and wages of registered nurses shall be included in this account. Payroll taxes shall not be included but overtime shall be. (1-16-80)
 - (3) Licensed Professional Nurses. Wages for licensed professional nurses shall be included in this account including overtime, but not including payroll taxes. (1-16-80)
 - (4) Aides/Orderlies. Normal overtime and wages for aides and orderlies, not to include payroll taxes, shall be included in this account. (1-16-80)
 - (5) Contracted Services. Payments for patient health care services under contract shall be entered here. (1-16-80)
 - ii. Therapy Services. (1-16-80)
 - (1) Salaries. Salaries for all therapy personnel shall be recorded here. (1-16-80)
 - (2) Professional Services. Payments for contracted therapy services shall be recorded here. (1-16-80)
 - (3) Supplies and Miscellaneous. Expenses for supplies and miscellaneous expenses related to therapy and recreational therapy services shall be recorded here. (1-16-80)
 - iii. Social Services. (1-16-80)
 - (1) Salaries. Wages and salaries for activity directors and social services personnel shall be recorded here. (1-16-80)
 - (2) Contracted Services. Payments under contract arrangement for activities director or other social services personnel shall be included here. (1-16-80)
- iv. Payroll Taxes and Employee Benefits. The payroll taxes and cost of employee benefits related to the salaries reported in Section 208 of these rules should be reported here. (7-1-97)
- v. Costs Not Subject to the Percentile Cap. (12-31-91)
 - (1) Special Needs. Those costs determined by the Department and authorized under Section 56-117, Idaho Code, will be excluded from other reported costs and will be reported here (see Subsection 254.08). (12-31-91)
 - (2) Excluded Costs. Increases in costs otherwise subject to a cap incurred by facilities as a result of changes in legislation or regulations will be excluded from costs reported in categories subject to the cap and will be reported here (see Subsection 254.09). (7-1-97)
- d. Facility Operations and Services. (1-16-80)
 - i. Central Supply. (1-16-80)

- (1) Salaries: Pharmacist. Salaries and wages of pharmacists who are regular employees of the facility shall be included here, but are not reimbursable. (1-16-80)
- (2) Salaries. Salaries and wages of others, such as stock clerks, shall be recorded here. (1-16-80)
- (3) Contracted Services. Payments for services under contract will be recorded in this category, not including pharmaceutical services. (1-16-80)
- (4) Supplies and Miscellaneous. Miscellaneous expenses and routine nursing supplies such as laxatives, aspirin, and dressings shall be recorded here; the cost of oxygen concentrators may also be recorded here. Cost of prescription drugs must not be included. (12-28-89)
- ii. Laundry and Linen. (1-16-80)
- (1) Salaries. Salaries and wages for personnel involved in laundry operations shall be recorded here. (1-16-80)
- (2) Purchased Services. Costs of contracted linen services shall be recorded here. (1-16-80)
- (3) Linens and Bedding. Purchase of sheets, mattress pads, blankets, towels, etc., shall be entered here. Costs of beds and mattresses are capitalizable and should be treated accordingly. (1-16-80)
- (4) Miscellaneous Expenses. Miscellaneous expenses not properly classified in other areas of Section 208 should be included in this account. (12-31-91)
- e. Dietary. (1-16-80)
- i. Salaries: Dietitian. Wages of a dietitian who is a regular employee shall be included here. (1-16-80)
- ii. Salaries: Other. Salaries of cooks and other dietary personnel should be recorded here. (1-16-80)
- iii. Purchased Services. Payments for contracted dietary services, or dietitians, shall be included here. (1-16-80)
- iv. Food. Cost of food used for the period will be included here not including vending machine items. For purposes of reasonable cost evaluation, revenues from meals sold to nonpatients will reduce food costs and should be reported in the revenue Section. (1-16-80)
- v. Supplies. Cost of dietary supplies other than food should be recorded here. Do not include vending machine items. (1-16-80)
- f. Plant Operations and Maintenance. (1-16-80)
- i. Salaries. Wages of all housekeeping and maintenance employees shall be included in this account. (1-16-80)
- ii. Repairs and Maintenance. Cost of minor repairs to buildings and equipment shall be recorded here. (1-16-80)
- iii. Purchased Services. Costs of maintenance and repair services purchased under contract arrangements shall be recorded here. (1-16-80)
- iv. Utilities. Expenses for heat, electricity, water and sewer shall be included in this account. (9-15-84)
- v. Supplies and Miscellaneous. Expense of supplies and other unclassified expenses should be included here. (1-16-80)

g. Nonreimbursable Expenses. This classification of expenses is provided to reconcile your cost statement to books of record. It will also help the facility to determine its reasonable costs and anticipate its revenues. Routine business expenses not includable in the reasonable cost formula are to be recorded in Section 208. The account titles are indicative of these costs which are commonly found. (12-31-91)

03. Home Office Reporting. The purpose of the provisions of Section 208, is to support the costs allocated to the provider facility. A report is required for each level of organization which allocates costs to the provider, directly or indirectly. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

240. PROSPECTIVE RATES FOR ICF/MR.

Sections 240 through 246~~7~~ of these rules provide procedures and specifications necessary to implement the provisions and accomplish the objectives of the payment system for ICF/MR providers. Total payment will include the following components: Property reimbursement, capped costs, an efficiency increment, exempt costs, excluded costs. (~~7-1-97~~)(7-1-99)T

241. PRINCIPLE.

Providers of ICF/MR facilities will be paid a per diem rate which, with certain exceptions, is not subject to an audit settlement. The per diem rate for a fiscal period will be based on audited historical costs adjusted for inflation. The provider will report these cost items in accordance with other provisions of this chapter or the applicable provisions of ~~HM-15~~ PRM to the extent not inconsistent with this chapter. (~~7-1-97~~)(7-1-99)T

242. PROPERTY REIMBURSEMENT.

Beginning October 1, 1996, ICF/MR property costs are reimbursed by a rental rate or based on cost. The following shall be reimbursed based on cost as determined by the provisions of this chapter and applicable provisions of ~~HM-15~~ PRM to the extent not inconsistent with this chapter: ICF/MR living unit property taxes, ICF/MR living unit property insurance, and major movable equipment not related to home office or day treatment services. Reimbursement of other property costs is included in the property rental rate. Any property cost related to home offices and day treatment services are not considered property costs and shall not be reported in the property cost portion of the cost report. These costs shall be reported in the home office and day treatment section of the cost report. Property costs, including costs which are reimbursed based on a rental rate, shall be reported in the property cost portion of the cost report. The Department may require and utilize an appraisal to establish those components of property costs which are identified as an integral part of an appraisal. Property costs include the following components: (~~7-1-97~~)(7-1-99)T

01. Depreciation. Allowable depreciation based on straight line depreciation. (7-1-97)

02. Interest. All allowable interest expense which relates to financing depreciable assets. Interest on working capital loans is not a property cost and is subject to the cap. (7-1-97)

03. Property Insurance. All allowable property insurance. Malpractice insurance, workmen's compensation and other employee-related insurances are not property costs. (7-1-97)

04. Lease Payments. All allowable lease or rental payments. (7-1-97)

05. Property Taxes. All allowable property taxes. (7-1-97)

06. Costs Of Related Party Leases. Costs of related party leases are to be reported in the property cost categories based on the owner's costs. (7-1-97)

(BREAK IN CONTINUITY OF SECTIONS)

244. EFFICIENCY INCREMENT FOR ICF/MR.

An efficiency increment will be included as a component of the prospective rate, or retrospective settlement if the allowable capped per diem costs are less than the cap. ~~(7-1-97)~~(7-1-99)T

01. Computing Efficiency Increment. The efficiency increment will be computed by subtracting the projected or, for facilities subject to retrospective settlement the actual allowable per diem costs incurred by the provider, from the applicable cap. This difference will be divided by five (5). The allowable increment is twenty cents (\$.20) per one dollar (\$1) below the cap up to a maximum increment of three dollars (\$3) per patient day. (7-1-97)

02. Determining Reimbursement. Total reimbursement determined by adding amounts determined to be allowable, shall not exceed the provider's usual and customary charges for these services as computed in accordance with this chapter and ~~HIM-15~~ PRM. In computing patient days for the purpose of determining per diem costs, in those cases where the Medicaid Program or the patient is making payment for holding a bed in the facility, the patient will not be considered to be discharged and thus those days will be counted in the total. ~~(7-1-97)~~(7-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

250. PROSPECTIVE CAPS COST LIMITS FOR NURSING FACILITIES.

Sections 250 through ~~256~~312 of these rules, provide procedures and specifications necessary to implement the provisions and accomplish the objectives of the nursing home reimbursement system as specified in Sections 56-101 through 56-135, Idaho Code. All audits related to fiscal years ending on or before December 31, 1999 are subject to rules in effect before July 1, 1999. ~~(7-1-97)~~(7-1-99)T

251. PRINCIPLE.

Providers of nursing home services will be paid at the allowed amount determined in accordance with Section 56-101 to 56-135~~1~~, Idaho Code. Total payment will be made up of the total of the following components: ~~(1-1-82)~~(7-1-99)T

01. Property And Utility Costs. All allowable property and utility costs; (9-15-84)

02. Nonproperty, Nonutility Costs. Nonproperty nonutility costs as determined in accordance with the above mentioned Sections of the Idaho Code. (9-15-84)

03. Efficiency Increment. An efficiency increment determined in accordance with the above mentioned Sections of the Idaho Code. (1-1-82)

04. Exempt Costs. Other allowable costs exempt from the percentile cap under Sections 56-110(b) and 56-117, Idaho Code, as specified in Subsection 254.08 and 254.09. (12-31-91)

252. PROPERTY AND UTILITY COSTS.

The allowability of each of these cost items will be determined in accordance with other provisions of this chapter, or the ~~HIM-15~~ PRM in those cases where this the rules of this chapter are silent or not contradictory. Total property and utility costs are defined as being made up of the following cost categories. The Department may require and utilize an appraisal to establish those components of property costs which are identified as an integral part of an appraisal. ~~(7-1-97)~~(7-1-99)T

01. Depreciation. All allowable depreciation expense. (1-1-82)

02. Interest. All allowable interest expense relating to financing building and equipment purchases. Interest on working capital loans will be included as administrative costs. (1-1-82)

03. Property Insurance. All allowable property insurance. Malpractice insurance, workmen's

compensation and other employee-related insurances will not be considered to be property costs. (1-1-82)

04. Lease Payments. All allowable lease or rental payments. (1-1-82)

05. Property Taxes. All allowable property taxes. (1-1-82)

06. Utility Costs. All allowable expenses for heat, electricity, water and sewer. (9-15-84)

253. (RESERVED):

254. COSTS SUBJECT TO A CAP FOR NURSING FACILITIES.

Final reimbursement of these costs will be limited to the amount allowed as determined in accordance with Sections 56-101 through 56-135, Idaho Code. This Section defines items and procedures to be followed in determining this limit. Specifically, this Section provides the procedures for: (7-1-97)

01. Determining Costs. Extracting cost data from historical cost reports, cost forecasting market basket to project cost forward, procedures to be followed to project costs forward, and procedures for computing the standard deviation of the range of costs and the percentile cap. (1-1-82)

02. Allowable Costs. Allowable costs to be included in this Section, as determined in accordance with this chapter or HIM-15, will be divided by the total patient days for the facility for the cost reporting period to arrive at allowable per diem costs. If costs for services provided some or all non-Medicaid patients are not included on the total submitted costs for those services, the provider must determine the amount of those costs and combine them with the submitted costs in order that a total per diem cost for that facility can be determined both for the purpose of determining the percentile cap and for computing final reimbursement. (12-31-91)

03. Cost Data For Hospital Based Facilities. Cost data to be used to determine the percentile cap for facilities in the hospital facilities based class shall be taken from each provider's most recent twelve (12) month audit report finalized by the Department prior to ninety (90) days before the beginning of the period for which the percentile cap is being determined. (9-28-90)

04. Cost Data For Freestanding Nursing Facilities. Cost data to be used to determine the percentile cap for facilities in the Freestanding Nursing Facilities class shall be taken from each provider's most recent fiscal period closing cost report received by the Department prior to one hundred twenty (120) days before the beginning of the period for which the percentile cap is being determined. For cost reports covering a period of less than twelve (12) months the reports will be annualized for purposes of cost projections of Subsection 254.10 by extending the reporting period used to one (1) year from the beginning of the cost reporting period. (7-1-97)

05. Projection. Per diem allowable costs will be inflated forward using a cost forecasting market basket and forecasting indices according to the table in Subsection 254.04.a. (12-31-91)

a. Cost Forecasting Market Basket:

Cost Category and Description	Forecaster
Payroll Expense—all wages and salaries excluding benefits	Average hourly earnings in nursing homes and personal care facilities homes
Employee Benefits	Skilled nursing facility employee benefits
Food—Wholesale Price Index	Processed foods and feeds component of the producers price index
Supplies—Include nursing, dietary, laundry, housekeeping and maintenance supplies	All Item Consumer Price Index

Cost Category and Description	Forecaster
Other Business Services - include dues, subscriptions, accounting and legal services, employee recruitment, telephone, office supplies and home office costs.	Service component of the Consumer Price Index
Fuel Oil and Coal	Fuel oil component of the Consumer Price Index
Electricity	Electricity component of the Consumer Price Index
Natural Gas	Utility gas component of the Consumer Price Index
Miscellaneous	All Item Consumer Price Index

b. Forecasting indices as developed by Data Resources, Incorporated, will be used unless they are unavailable. In such case, indices supplied by some other nationally recognized forecaster will be used. (1-1-82)

06. Special Rates. Section 56-117, Idaho Code, provides for authority to the Director to pay facilities at special rates for care given to patients who have long term care needs beyond the normal scope of facility services. Patients with such needs who are otherwise unable to be placed in a nursing facility may include, but are not limited to, ventilator assisted patients, certain pediatric patients, certain comatose patients, and certain patients requiring nasogastric or intravenous feeding devices. In the event that the Director exercises this authority: (12-28-89)

a. A determination to approve or not approve a special rate will be made on a patient by patient basis. No rate will be allowed if reimbursement for these needs is available from a non-Medicaid resource. (12-28-89)

b. A rate for each approved Medicaid patient will be set by the Department for extra costs the patient is expected to incur in excess of the cost of normal facility services. (12-28-89)

c. Costs equivalent to payments at the special rate will be removed from the category of costs subject to the percentile cap, will be reported separately, and will be fully reimbursed. (12-28-89)

d. The reimbursement rate paid will not exceed the provider's charges to other patients for similar services. A provider's charges to non-Medicaid patients for similar needs beyond the normal scope of nursing facility services will be the maximum reimbursable amount related to the special rate. If the provider has no other patients who receive such services in the reporting period, the provider's published charges applicable to non-Medicaid patients for such needs will be the maximum reimbursable amount for the special rate. (12-28-89)

07. Costs Excluded From The Percentile Cap. For cost reports filed on or after July 1, 1989, identifiable increases in costs with an expected impact of two cents (\$.02) or more per patient day otherwise subject to the percentile cap incurred by facilities in the ICF/SNF Freestanding class as a result of changes in state or federal laws or rules will be reported separately on the cost report for reports filed less than thirty (30) months, or a greater length of time if so directed by the Department, from the date such increases were first required. Such costs will be subdivided into the component parts of wages, benefits, contracted services and other costs in the amounts equal to costs removed from the respective cost categories subject to the percentile cap. (12-28-89)

a. A separate schedule or notations on the cost report are to be included so these excluded costs can be identified and so reported costs can be reconciled to the provider's general ledger. (12-28-89)

b. If more than one (1) increase occurs as a result of one (1) or more law or rule change, the costs from each event are to be reported separately. (12-28-89)

c. The computation of the cost increase amount or amounts is to be presented in detail on a supplementary schedule or schedules unless the Department provides otherwise. (12-28-89)

d. For interim rate purposes the provider may be granted an increase in interim rates to cover such cost increases as allowed for in Section 303. A cost statement covering a recent period should be submitted with the justification for the increased costs. (12-31-91)

e. After the initial deadline has passed for all providers to file cost reports for reporting periods beginning on or after the date certain cost increases were first required, the Department will, at a time of its choosing, include all of the previously excluded costs related to those increases with costs subject to the percentile cap when setting rates. If a percentile cap is set with these particular costs included in the percentile cap category, providers subject to that percentile cap will not have these costs excluded from the percentile cap for interim rate or final settlement purposes. The intent of this provision is for costs to be exempt from the percentile cap until these costs are able to be fully and equitably incorporated in the data base used to set the percentile cap and for these costs to be exempt only when they are not included in the data base. In those cases, when costs are not incurred immediately after a change in rule or law, delays in incorporating the new costs in the cap are warranted. (12-28-89)

f. When cost increases are to be excluded from the percentile cap and the effect of these cost increases would also be incorporated in the inflation indexes used to set the percentile cap, the cost indexes will be adjusted to exclude the influence of such changes if the amount included in the index is identified. When the percentile cap is set to include previously excluded amounts, any adjustments previously made to the indexes related to the previously excluded costs will be removed. (12-28-89)

08. Cost Projection. Allowable per diem costs will be projected forward from the midpoint of the cost reporting period from which they were derived to the midpoint of the period for which the reimbursement and the limitation of these costs is being calculated. Procedures for inflating these costs are as follows: (1-1-82)

a. The percentage change for each cost category in the market basket will be computed for the beginning to the end of the period from which the per diem costs were derived. These percentages will then be divided by two (2) and the resultant percentages will be used to project forward allowable per diem costs for each cost category from the midpoint of the period from which the costs were derived to the end of that period. (1-1-82)

b. The percentage change for each cost category in the market basket will be computed for the period beginning at the end of the period from which the per diem costs were derived and ending at the beginning of the period for which the reimbursement and the limitation of these costs is being calculated. These percentages will then be used to project forward the allowable per diem costs for each cost category, as determined in Subsection 254.10.a. from the end of the period from which they were derived to the beginning of the period for which the reimbursement and the limitation is being determined. (12-31-91)

e. The percentage change for each cost category in the market basket will be computed for the beginning to the end of the period for which the reimbursement and the limitation is being computed. These percentages will then be divided by two (2) and the resultant percentages will be used to project forward the allowable per diem costs as determined in Subsection 254.10.b. from the beginning to the midpoint of the period for which the reimbursement and the limitation is being computed. (12-31-91)

09. Cost Ranking. Projected per diem costs as determined by Subsection 254.10 and subject to the percentile cap will be ranked from highest to lowest within each class of providers. Costs for providers will be grouped in classes according to the type of provider with the classes being Freestanding Nursing Facilities, Hospital Based Facilities, and ICF/MR. (12-31-91)

a. The standard deviation of the range will be computed based on the available data points being considered the total population of data points. (1-1-82)

b. The standard deviation figure will then be used to determine the percentile cap in accordance with the Idaho Code as follows:

If Two Times the Standard Deviation is	Then the Percentile Cap Will be
\$2.99 or less	100 percentile
\$3.00 to \$5.99	90 percentile

If Two Times the Standard Deviation is	Then the Percentile Cap Will be
\$6.00 to \$11.99	80 percentile
\$12.00 or greater	75 percentile

(1-1-82)

e. ~~The percentile cap will be computed based on the assumption that the range of costs is a statistically normal distribution unless the cap is to be at the one hundred (100) percentile. In that case, the highest cost in the range will become the percentile cap.~~ (1-1-82)

d. ~~The percentile cap for each facility's fiscal year following January 1, 1982, will be computed prior to the beginning of that fiscal year in accordance with the Idaho Code. For those facilities with a fiscal year ending on a date other than December 31, the first percentile cap will be computed for the period beginning January 1, 1981, and ending on their fiscal year end date.~~ (1-1-82)

e. ~~The percentile cap will be determined and set for each facility's upcoming fiscal year prior to that year and it will not be changed by any subsequent events or information with the exception that if the computations were found to contain mathematical type errors, these errors will be corrected and the percentile cap adjusted to what it would compute to be using the corrected figures.~~ (1-1-82)

f. ~~Reimbursement of costs in this cost center will be limited to the percentile cap unless the provider can demonstrate to the Department of Health and Welfare that his facility was operated efficiently during the cost reporting period and that the costs incurred in excess of the percentile cap were beyond his control. In such case, costs in excess of the cap will be allowed to the extent that they are justified by this process.~~ (1-1-82)

g. ~~Facilities which for the first time offer patient care services in the hospital-based facilities class on or after April 1, 1985, shall be subject to the same limitation on nonproperty nonutility reimbursement as is applied to the freestanding nursing facilities class with the same fiscal year as the hospital based provider. The efficiency increment for such facilities shall be computed based on the fraction applicable to the freestanding nursing facilities class. Cost reports for such facilities shall be included in the hospital-based facilities class.~~ (9-28-90)

255. EFFICIENCY INCREMENT:

~~A nursing facility efficiency increment will be included as a component of the total reimbursement if the allowable per diem costs incurred by the nursing facility provider for those cost categories subject to the percentile cap addressed in Section 254, are less than percentile cap for the class in which the facility belongs.~~ (7-1-97)

01. Computing Efficiency Increment. ~~The efficiency increment will be computed by subtracting the actual allowable per diem costs incurred by the provider from the applicable percentile cap and multiplying the resultant figure by the fraction applicable to the cost center according to the following table:~~ (1-1-82)

EFFICIENCY INCREMENT	
Percentile Cap Applicable to The Class of Facilities	Fraction to be Used in Determining the Efficiency Increment
100 percentile	One-half (1/2)
90 percentile	One-third (1/3)
80 percentile	One-fourth (1/4)
75 percentile	One-sixth (1/6)

~~02. Allowable Increment.~~ The allowable increment cannot exceed one dollar and fifty cents (\$1.50) per Medicaid patient day. (1-1-82)

~~03. Determining Reimbursement.~~ Total reimbursement determined by adding amounts determined allowable in accordance with Sections 252, 253, 254, and 255, shall not exceed the provider's usual and customary charges for these services as computed in accordance with this chapter and HIM-15. In computing patient days for the purpose of determining per diem costs, in those cases where the Medicaid Program or the patient is making payment for holding a bed in the facility, the patient will not be considered to be discharged and thus those days will be counted in the total. (12-31-91)

256. DEFINITIONS:

~~01. Lower Of Cost Or Charges.~~ In addition to 42 CFR Part 447, the Title XIX Medical Assistance Manual (MSA) PRG 1, Part 6-170-20B states that on cost related basis of reimbursement "... the limit on payments for extended care facilities (ECF's) under Title XVIII shall not exceed...". These limits are determined on an individual facility basis for comparable service. Supplement 5 of the 1972 amendments to the Providers Reimbursement Manual (SSA HIM-15) states "regulations based on the 1972 amendments (as revised by Section 16 of P.L. 93-233) state that for services rendered in cost reporting periods beginning after December 31, 1973, payment to providers (other than public providers furnishing such services free of charge or at nominal charges to the public shall be the lesser of the reasonable cost of such services or the customary charges with respect to such services. Public providers which furnish services free of charge or at a nominal charge shall be reimbursed fair compensation which is the same as reasonable cost." (1-16-80)

~~02. Customary Charges.~~ Customary charges are the regular rates for various services which are recorded for Medicare beneficiaries and charges to patients liable for such charges. Those charges are to be adjusted downward, however, where the provider does not impose such charges on most patients liable for payment on a charge basis or, fails to make reasonable collection efforts, the reasonable effort to collect such charges is the same effort necessary for Medicare reimbursement as is needed for unrecovered costs attributable to certain bad debt (see Chapter 3, Sections 310 and 312, HIM-15). (1-16-80)

~~03. Public Provider.~~ A public provider is one operated by a federal, state, county, city, or other local government agency or instrumentality. (1-16-80)

~~04. Nominal Charges.~~ A public provider's charges are nominal where aggregate charges amount to less than one half (1/2) of the reasonable cost of the related services. The result of this is that the Title XIX rate may not exceed the Title XVIII rate, less ancillary charges or charges to third parties (i.e. general public) for comparable services. (1-16-80)

a. Assuming that the Title XVIII rate is ten dollars (\$10) per patient day (not including ancillaries), customary charges are fifteen dollars (\$15) per patient day. (12-31-91)

b. In this case the customary charges are in excess of the potential rate so they are not a limiting factor. However, the Title XVIII rate is less for equivalent services. Therefore, the interim reimbursement rate will be at the ICF/SNF rate of ten dollars (\$10) per patient day. (12-31-91)

~~257.~~ -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

300. RATE SETTING.

The objectives of the rate setting mechanism for nursing facilities are: (7-1-97)

~~01. Interim Payments.~~ To make payments to nursing facilities on an interim basis, which approximate as close as possible, the amount which will be received by the provider on final settlement through a prospective cost-based system which includes facility-specific case mix adjustments. (7-1-97)(7-1-99)T

02. Rate Adjustment. To set ~~interim~~ rates based on ~~projected cost data so that the rates will not need to be adjusted more than once per year except in cases where a provider experiences uncontrollable unanticipated cost increases~~ each facility's case mix index on a quarterly basis and establishing rates that reflect the case mix of that facility's Medicaid residents as of a certain date during the preceding quarter. ~~(1-1-82)(7-1-99)T~~

301. PRINCIPLE.

~~Interim~~ Reimbursement rates will be set based on projected cost data from cost reports and audit reports. Nursing facilities desiring a higher reimbursement rate may submit evidence to the Department substantiating their need for a higher rate and based on this evidence, adjustments may be made to the rate allowed. A provider may request a rate lower than his projected costs if he expects his costs to be less than projections show. Reimbursement is to be set for freestanding and hospital-based facilities. In general, the methodology will be a cost-based prospective reimbursement system with an acuity adjustment for direct care costs. ~~(7-1-97) (7-1-99)T~~

302. DEVELOPMENT OF THE RATE.

Rates shall be rebased annually. Rate setting shall be prospective with new rates effective July 1 of each year. There will be no settlement between actual costs incurred during the rate year and the rate itself. Rates for skilled care nursing facilities with unaudited cost reports will be interim rates established by the Department until a rate is calculated based on an audited cost report. The draft audit of a cost report submitted by a facility shall be issued by the Department no later than five (5) months from the date all information required for completion of the audit is filed with the Department. Projected ~~d~~ data used to develop the ~~interim~~ reimbursement rate for nursing facilities will be made up of the following components: ~~(7-1-97)(7-1-99)T~~

01. Property Reimbursement. Per diem property costs as shown on the latest twelve (12) month cost report or audit report whichever is to be used in accordance with the cost reporting standards specified in Subsections 254.03.a. and 254.03.b. and the property rental rate as determined by Section 060, for facilities which receive this rate in lieu of property costs. No inflationary increase will be considered for property costs for the purpose of developing the interim rate. The property reimbursement component will be calculated in accordance with Section 060 of these rules. ~~(12-31-91)(7-1-99)T~~

02. Utility Costs. Projected utility costs for the facility's upcoming fiscal year may be submitted to the Department not less than ninety (90) days prior to the beginning date of the facility's upcoming fiscal year. In the absence of such submission the Department will project the facility's utility costs utilizing the methodologies found in Subsection 254.06. ~~(12-31-91)~~

03. Efficiency Increment. ~~An efficiency increment as determined in accordance with the provisions of Section 255.~~ Direct Care Component. The direct care component of a facility's rate is the lesser of the facility's inflated direct care per diem costs, or the case mix adjusted per diem cost limit for that type of provider (free-standing nursing facility and urban hospital-based facilities, or rural hospital-based facilities). The lesser of the cost or limitation is then case mix adjusted, based on the facility's Medicaid case mix index. ~~(12-31-91)(7-1-99)T~~

a. All costs included in the direct care component will be adjusted based on the facility's case mix indices, with the exception of raw food and Medicaid related ancillary costs. ~~(7-1-99)T~~

b. The direct care limitation will be adjusted based on each facility's case mix index. The calculated direct care limit will be divided by the statewide average facility-wide case mix index, and then multiplied by the individual facility-wide case mix index. ~~(7-1-99)T~~

c. The lesser of the cost or limit will be divided by the facility-wide case mix index, and then multiplied by the most recent quarterly Medicaid case mix index to arrive at the direct care component. ~~(7-1-99)T~~

04. Indirect Care Component. The indirect care component of a facility's rate is the lesser of the facility's inflated indirect care per diem costs, or the indirect per diem cost limit for that type of provider (freestanding nursing facilities and urban hospital-based facilities, or rural hospital-based facilities). ~~(7-1-99)T~~

05. Efficiency Incentive. The efficiency incentive is available to those providers, both freestanding and hospital-based, which have inflated per diem indirect care costs less than the indirect per diem cost limit for that type

of provider. The efficiency incentive is calculated by multiplying the difference between the per diem indirect cost limit and the facility's inflated per diem indirect care costs by seventy percent (70%). There is no incentive available to those facilities with per diem costs in excess of the indirect care limit, or to any facility based on the direct care component. (7-1-99)T

046. Maximum Rate Calculated Reimbursement Rate. The reimbursement rate for a facility will be the sum of the Direct Care Component, Indirect Care Component, Efficiency Incentive, Cost Exempt from Limitation, and Property Reimbursement. In no case will the interim reimbursement rate be set higher than the charge for like services to private pay patients in effect for the period for which payment is being made as computed in accordance with Section 256 by the lower of costs or customary charges. (42-31-91)(7-1-99)T

07. Cost Component. The cost component of each facility's rate shall be established effective July 1 of each year and remain in effect through the following June 30. The cost data used in establishing the cost component of the rate calculation will be from the audited or unaudited cost report which ended during the previous calendar year (i.e., cost reports ending during the period from January 1, 1998 - December 31, 1998 will be used in setting rates effective July 1, 1999). If unaudited data is used, the rate will be considered an interim rate until the audited data is available, at which time a retroactive adjustment to the payment rate will be made. (7-1-99)T

08. Case Mix Component. The Medicaid case mix indices used in establishing each facility's rate will be recalculated quarterly and each facility's rate will be adjusted accordingly. The case mix indices will be calculated based on the most recent assessment for each resident in the facility on the first day of the second month of the preceding quarter (i.e., assessments as of May 1, 1999 would be used to establish the case mix indices needed to establish rates for the quarter beginning July 1, 1999). (7-1-99)T

303. CHANGES TO THE NURSING FACILITY RATE COST LIMITS.

Effective July 1, 1999, and each July 1 thereafter, cost limitations shall be established for nursing facilities based on the most recent audited cost report with an end date of June 30 of the previous year or before. Calculated limitations shall be effective for a one (1) year period, from July 1 through June 30 of each year. (7-1-99)T

01. Rate Waiver. A nursing facility provider desiring a higher interim rate than that rate determined in accordance with Section 302, may submit to the Department evidence and documentation substantiating the rate being requested. The Department will review this information and if it adequately documents the need for a higher rate, the rate will be adjusted upward. **Percentage Above Bed-Weighted Median.** Prior to establishing the first "shadow rates" at July 1, 1999, the estimated Medicaid payments under the previous retrospective system for the year period from July 1, 1999 through June 30, 2000 will be calculated. This amount will then be used to model the estimated payments under the case mix system set forth in Sections 300 through 302 of these rules. The percentages above the bed-weighted median, for direct and indirect costs, will be established at a level that approximates the same amount of Medicaid expenditures as would have been produced by the retrospective system. The percentages will also be established to approximate the same distribution of total Medicaid dollars between the hospital-based and freestanding nursing facilities as existed under the retrospective system. Once the percentage is established, it will be used to calculate the limit by multiplying the bed-weighted median per diem direct cost times the calculated percentage for that class of provider. There will be a direct and indirect percentage that is applied to freestanding and urban hospital-based nursing facilities, and a higher direct and indirect percentage that is applied to rural hospital-based nursing facilities. Once established, these percentages will remain in effect for future rate setting periods. (7-1-97)(7-1-99)T

02. Lower Rate. If a provider desires a lower rate than that rate determined in accordance with Section 302, in order to avoid being overpaid when final settlement for the period is being computed, he may request a lower rate. The lower rate will be set at the level desired by the provider. **Direct Cost Limits.** The direct cost limitation shall be calculated by indexing the selected cost data forward by the inflation adjustment from the midpoint of the cost report period to the midpoint of the period for which the limit will be applicable. The indexed per diem costs will then be normalized and arrayed from high to low, with freestanding and hospital-based nursing facilities included in the same array, and the bed-weighted median will be computed. (42-31-91)(7-1-99)T

03. Frequency. The interim rate as determined in accordance with this Section will be set for each provider's upcoming fiscal year. The rate may be adjusted a maximum of two (2) times per year at the initiation of either the Department or the provider; however, an adjustment will only be made in those cases where it can be shown

~~that:~~ **Indirect Cost Limits.** The indirect cost limitation shall be calculated by indexing the selected cost data forward by the inflation adjustment from the midpoint of the cost report period to the midpoint of the period for which the limit will be applicable. The indexed per diem costs will then be arrayed, with freestanding and hospital-based nursing facilities included in the same array, and the bed-weighted median will be computed. (1-1-82)(7-1-99)T

~~and-~~ a. Cost increases or decreases were unforeseen and not compensated for by the inflation indices used; (1-1-82)

b. In the case of cost increases, changes were outside the control of the provider. (1-1-82)

04. Limitation On Increase Or Decrease Of Cost Limits. Increases in the direct and indirect cost limits shall be determined by the limitations calculated effective July 1, 1999, indexed forward each year by the inflation factor plus two percent (2%) per annum. Furthermore, the calculated direct and indirect cost limits shall not be allowed to decrease below the established limitations effective July 1, 1999. The maximum rate of growth on the cost limits, and the minimum cost limitation, will be examined by the oversight committee after a three-year period to determine which factors to use in the calculation of the limitations effective July 1, 2002 and forward.

(7-1-99)T

05. Costs Exempt From Limitations. Costs exempt from limitations include property taxes, property insurance, and utilities. These costs will be reimbursed on a per diem basis and will not be included in the calculation of the direct or indirect care component. However, property taxes and property insurance will be subject to minimum occupancy levels as defined in Section 123.

(7-1-99)T

304. TREATMENT OF NEW BEDS.

Facilities which add beds subsequent to the effective date of these rules (July 1, 1999), will have their reimbursement rate subjected to an additional limitation for the next three (3) full years. This limitation will apply beginning with the first rate setting period which utilizes a cost report that includes the date when the beds were added. The facility's rate will be limited to the bed-weighted average of two (2) rates. Those two (2) rates are:

(7-1-99)T

01. Limitation Of Facilities Rate. The facility's rate will be limited to the bed-weighted average of the facility's rate calculated in accordance with Section 302, and the current median rate for skilled care facilities of that type (freestanding or hospital-based) established each July 1.

(7-1-99)T

02. Calculation Of New Bed Rate. The current calculated facility rate will be multiplied by the number of beds in existence prior to the addition. The median rate will be multiplied by the number of added beds (weighted for the number of days in the cost reporting period for which they were in service). These two (2) amounts will be added together and divided by the total number of beds (with the new beds being weighted if they were only in service for a portion of the year). The resulting per diem will represent an overall limitation on the facility's reimbursement rate. Providers with calculated rates that do not exceed the limitation will receive their calculated rate.

(7-1-99)T

03. Exception To New Bed Rate. Any beds converted from nursing facility to assisted living beds may not be reclassified to new nursing facility beds until three (3) years have elapsed from the date the beds were reclassified to assisted living beds.

(7-1-99)T

305. TREATMENT OF NEW FACILITIES.

Facilities constructed subsequent to July 1, 1999, will be reimbursed at the median rate for skilled care facilities of that type (freestanding or hospital-based) for the first three (3) full years of operation. During the period of limitation, the facility's rate will be modified each July 1 to reflect the current median rate for skilled care facilities of that type. After the first three (3) full years, the facility will have its rate established at the next July 1 with the existing facilities in accordance with Section 302 of this rule.

(7-1-99)T

306. TREATMENT OF A CHANGE IN OWNERSHIP.

New providers resulting from a change in ownership of an existing facility shall receive the previous owner's rate until such time as the new owner has a cost report which qualifies for the rate setting criteria established under these rules.

(7-1-99)T

307. DISTRESSED FACILITY.

If the Department determines that a facility is operationally or financially unstable, is located in an under-served area, or addresses an under-served need, the Department may negotiate a reimbursement rate different than the rate then in effect for that facility. (7-1-99)T

308. INTERIM ADJUSTMENTS TO RATES AS A RESULT OF NEW MANDATES.

Certain costs may be excluded from the cost limit calculations, may be subject to retrospective settlement at the discretion of the Department, and may result in changes to the prospective rates as provided in this Section to assure equitable reimbursement: (7-1-99)T

01. Changes Of More Than Fifty Cents Per Patient Day In Costs. Changes of more than fifty cents (\$.50) per patient day in costs otherwise subject to the cost limitations incurred by a facility as a result of changes in state or federal laws or rules will be reported separately on the cost report until such time as they can be properly reflected in the cost limits. (7-1-99)T

a The provider shall report these costs on a separate schedule or by notations on the cost report so that these costs can be identified and reconciled to the provider's general ledger. These costs will be reported separately and will not be reimbursed through the rate setting process until the costs are fully represented in the cost data used to establish the cost limitations and rates. (7-1-99)T

b If more than one (1) increase occurs as a result of one (1) or more law or rule changes, the costs from each event are to be reported separately. (7-1-99)T

c The computation of the cost increase amount or amounts is to be presented in detail on a supplementary schedule or schedules unless the Department states otherwise. (7-1-99)T

02. Interim Rate Adjustments. For interim rate purposes, the provider may be granted an increase in its prospective rate to cover such cost increases. A cost statement covering a recent period may be required with justification for the increased costs. The actual amount related to such increases will be determined at audit and may be retrospectively settled. (7-1-99)T

03. Future Treatment Of Costs. After the initial deadline has passed for all providers to file cost reports for reporting periods beginning on or after the date certain cost increases were first required, the Department will, at its option, include all of the previously excluded costs related to those increases in the calculation of costs subject to the cost center limits. The intent of this provision is for costs to be exempt from the cost limits until these costs are able to be fully and equitably incorporated into the data base used to project the cost limits. When cost increases which have been excluded from the cap are incorporated in the inflation indices used to set the cost limits, the cost indices will be adjusted to exclude the influence of such changes if the amount included in the index is identified. When the cost limits are set to include previously excluded amounts, any adjustments made to the indices related to the previously excluded costs will be removed. (7-1-99)T

309. MDS REVIEWS.

The following Minimum Data Set reviews will be conducted: (7-1-99)T

01. Facility Review. Subsequent to the picture date, each facility will be sent a copy of its resident roster (a listing of residents, their RUG classification, case mix index, and identification as Medicaid or other). It will be the facility's responsibility at that time to review the roster for accuracy. If the roster is accurate, the facility will sign and return the roster for rate setting. If any errors are detected, those errors will be communicated to the Department in writing along with any supporting documentation. If the signed resident roster is not returned and no errors are communicated to the Department, the original resident roster will be used for rate setting. Once the resident roster has been used for rate setting, it will be considered final unless modified by subsequent Departmental review. (7-1-99)T

02. Departmental Review. If a departmental review of the MDS data reveals errors that result in an incorrect case mix index, the provider's rate will be retroactively adjusted, for all quarters containing the incorrect assessment, and an amount due to or from the Department will be calculated. This does not include residents who received the default classification due to incomplete or inconsistent MDS data. (7-1-99)T

310. SPECIAL RATES.

Section 56-117, Idaho Code, provides authority for the Director to pay facilities a special rate for care given to patients who have long term care needs beyond the normal scope of facility services. These patients must have needs which are not adequately reflected in the rates calculated pursuant to the principles set forth in Section 56-102, Idaho Code. The payment for such specialized care will be in addition to any payments made in accordance with other provisions of this chapter. The incremental cost to a facility that exceeds the rate for services provided pursuant to the provisions of this section will be excluded from the computation of payments or rates under other provisions of Section 56-102, Idaho Code, and these rules. (7-1-99)T

01. Determinations. A determination to approve or not approve a special rate will be made on a patient-by-patient basis. No rate will be allowed if reimbursement for these needs is available from a non-Medicaid source. (7-1-99)T

02. Application. Until the facility applies for a special rate, patients with such needs will be included in the computation of the facility's rates following the principles described in Section 56-102, Idaho Code. (7-1-99)T

03. Approval. Approved special rates will become effective on the date the application is received, but no earlier than the first day of the month in which the application for a special rate was received. (7-1-99)T

04. Reporting. Costs equivalent to payments at the special rate will be removed from the cost components subject to limits, and will be reported separately. (7-1-99)T

05. Limitation. The reimbursement rate paid will not exceed the provider's charges to other patients for similar services. (7-1-99)T

311. PHASE-IN PROVISIONS.

The rates established pursuant to these rules shall be phased in over a three-year period as follows: (7-1-99)T

01. July 1, 1999 Through December 31, 1999. During this period, providers will continue to be reimbursed under the previous retrospective system; however, the Department will also issue by July 1, 1999 and October 1, 1999, "shadow rates" which will inform facilities what their rate would be under the provisions of these rules. (7-1-99)T

02. January 1, 2000 Through June 30, 2000. Rates calculated under the provisions of these rules will be compared to the rates that were available to the same facility as of June 30, 1999. Facilities which would experience decreases in their rate of one dollar (\$1) or less per resident day will receive the rate established under the provisions of these rules with no phase-in. Facilities which would experience decreases in their rate of greater than one dollar (\$1) per resident day will have the decrease in their rate limited to the greater of one dollar (\$1) per resident day or twenty-five percent (25%) of the decrease. Facilities which would experience increases in their reimbursement rate will receive the increased rate. (7-1-99)T

03. July 1, 2000 Through June 30, 2001. Rates calculated under the provisions of these rules will be compared to the rates that were available to the same facility as of June 30, 1999. Facilities which would experience decreases in their rate of two dollars (\$2) or less per resident day will receive the rate established under the provisions of these rules with no phase-in. Facilities which would experience decreases in their rate of greater than two dollars (\$2) per resident day will have the decrease in their rate limited to the greater of two dollars (\$2) per resident day or fifty percent (50%) of the decrease. Facilities which would experience increases in their reimbursement rate will receive the increased rate. (7-1-99)T

04. July 1, 2001. Beginning with July 1, 2001, the rates established under the provisions of these rules will be fully implemented with no phase-in. (7-1-99)T

312. OVERSIGHT COMMITTEE.

The Director will appoint an oversight committee to monitor implementation of the Prospective Payment System (PPS) for nursing facility reimbursement that takes effect July 1, 1999. The committee will be made up of at least one (1) member representing each of the following organizations: the Department, the state association(s) representing

free standing skilled care facilities, and the state association(s) representing hospital-based skilled care facilities. The committee will continue to meet periodically subsequent to the implementation of the PPS. After three (3) years of implementation, the committee will examine the inflation factors used to inflate costs forward for rate setting (DRI + one percent (+1%), the inflation factors used in limiting the growth in the cost component limitations (DRI + two percent (+2%)), and the level of the minimum cost component limitations (not lower than limits established July 1, 1999). (7-1-99)T

30413. DISPUTES.

01. Administrative Review Requirement. If any facility wishes to contest the way in which a rule or contract provision relating to the prospective, cost-related reimbursement system was applied to such facility by the Director, it shall first pursue the administrative review process set forth in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Section 300, et seq., and Section 301, "Rules Governing Contested Cases and Declaratory Rulings". (12-31-91)

02. Legal Challenge. The administrative review process need not be exhausted if a facility wishes to challenge the legal validity of a statute, rule, or contract provision. (12-31-91)

305. (RESERVED).

30614. DENIAL, SUSPENSION, REVOCATION OF LICENSE OR PROVISIONAL LICENSE -- PENALTY.

The Director is authorized to deny, suspend, or revoke a license or provisional license or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed one thousand dollars (\$1000) per violation in any case in which it finds that the facility, or any partner, officer, director, owner of five percent (5%) or more of the assets of the facility, or managing employee: (12-31-91)

01. Failed Or Refused To Comply. Failed or refused to comply with the requirements of Sections 56-101 through 56-135, Idaho Code, or the rules established hereunder; or (1-1-82)

02. False Statements. Has knowingly or with reason to know made a false statement of a material fact in any record required by this chapter; or (1-1-82)

03. Refused To Allow Representative. Refused to allow representatives or agents of the Director to inspect all books, records, and files required to be maintained by the provisions of this chapter or to inspect any portion of the facility's premises; or (1-1-82)

04. Wilfully Prevented, Interfered With, Or Attempted To Impede Work. Wilfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the Director and the lawful enforcement of any provision of this chapter; or (1-1-82)

05. Preservation Of Evidence. Wilfully prevented or interfered with any representative of the Director in the preservation of evidence of any violation of any of the provisions of this chapter. (12-31-91)

30715. -- 349. (RESERVED).

350. AUDITS.

The objectives of an audit are: (1-16-80)

01. Accuracy Of Recording. To determine whether the transactions recorded in the books of record are substantially accurate and reliable as a basis for determining reasonable costs. (1-16-80)

02. Reliability Of Internal Control. To determine that the facilities internal control is sufficiently reliable to disclose the results to the provider's operations. (1-16-80)

03. Economy And Efficiency. To determine if Title XIX recipients have received the required care on a basis of economy and efficiency. (1-16-80)

04. Application Of GAAP. To determine if GAAP is applied on a consistent basis in conformance with applicable federal and state regulations. (1-16-80)

05. Patient Trust Fund Evaluation. To evaluate the provider's policy and practice regarding his fiduciary responsibilities for patients, funds and property. (1-16-80)

06. Enhancing Financial Practices. To provide findings and recommendations aimed at better financial practices to allow the most economical delivery of patient care. (1-16-80)

07. Compliance. To provide recommendations which will enable the provider to conform more closely with state and federal regulations in the delivery of health care to program recipients. (1-16-80)

08. Final Settlement. To effect final settlement when required by Sections 250 through 350 of this rule. (~~1-16-80~~)(7-1-99)T

(BREAK IN CONTINUITY OF SECTIONS)

~~**353. DEFINITIONS.**~~

~~**01. Limited Scope Audits.** Limited scope audits are designed as information gathering tools. Normally, such audits will only include examination of a few accounts, practices or policies. (1-16-80)~~

~~**02. Full Scope Audits.** Full scope audits are intended to be extensive. These audits will include an examination of all financial records, provider policies, etc., considered necessary to the audit objectives. (1-16-80)~~

~~**354. STANDARDS AND REQUIREMENTS.**~~

01. Review Of New Provider Fiscal Records. Before any program payments can be made to a prospective provider the intermediary will review the provider's accounting system and its capability of generating accurate statistical cost data. Where the provider's record keeping capability does not meet program requirements the intermediary will offer limited consultative services or suggest revisions of the provider's system to enable the provider to comply with program requirements. (1-16-80)

02. Requirements. Section 2404.3 of the August, 1973 revision of the Providers Reimbursement Manual (~~SSA-HM-15~~ PRM) states: "Examination of Pertinent Data and Information -- Providers asking to participate as well as those currently participating must permit the intermediary to examine such records and documents as are deemed necessary." (~~1-16-80~~)(7-1-99)T

03. Examination Of Records. Examination of records and documents may include, but not be limited to: (1-16-80)

a. Corporate charters or other documents of ownership including those of a parent or related companies. (1-16-80)

b. Minutes and memos of the governing body including committees and its agents. (1-16-80)

c. All contracts. (1-16-80)

d. Tax returns and records, including workpapers and other supporting documentation. (1-16-80)

e. All insurance contracts and policies including riders and attachments. (1-16-80)

f. Leases. (1-16-80)

- g. Fixed asset records (see audit section - Capitalization of Assets). (1-16-80)
- h. Schedules of patient charges. (1-16-80)
- i. Notes, bonds and other evidences of liability. (1-16-80)
- j. Capital expenditure records. (1-16-80)
- k. Bank statements, cancelled checks, deposit slips and bank reconciliations. (1-16-80)
- l. Evidence of litigations the facility and its owners are involved in. (1-16-80)
- m. Documents of ownership including attachments which describe the property. (1-16-80)
- n. All invoices, statements and claims. (1-16-80)
- o. "Providers Accounting Firm. Where a provider engages an accounting firm to maintain its fiscal records, the financial audit workpapers prepared by the accounting firm are considered to be the property of the provider and must be made available to the intermediary upon request." (~~SSA-HM-15 PRM~~, paragraph 2404.4(Q) of the Providers Reimbursement Manual) (~~1-16-80~~)(7-1-99)T
- p. Ledgers, journals, all working papers, subsidiary ledgers, records and documents relating to financial operation. (1-16-80)
- q. All patient records, including trust funds and property. (1-16-80)
- r. Time studies and other cost determining information. (1-16-80)
- s. All other sources of information needed to form an audit opinion. (1-16-80)
- 04. Adequate Documentation.** (1-16-80)
 - a. Adequacy of Cost Information. Cost information as developed by the provider must be current, accurate, and in sufficient detail to support payment made for services rendered to beneficiaries. This includes all ledgers, books, records and original evidences of cost (purchase requisitions, purchase orders, vouchers, requisitions for material, inventories, labor time cards, payrolls, bases for apportioning costs, etc.) which pertain to the determination of reasonable cost, capable of being audited (~~SSA-HM-15 PRM~~, Section 2304). (~~1-16-80~~)(7-1-99)T
 - b. Expenses. Adequate documentation would normally include: an invoice, or a statement with invoices attached which support the statement. All invoices should meet the following standards: (1-16-80)
 - i. Date of service or sale; (1-16-80)
 - ii. Terms and discounts; (1-16-80)
 - iii. Quantity; (1-16-80)
 - iv. Price; (1-16-80)
 - v. Vendor name and address; (1-16-80)
 - vi. Delivery address if applicable; (1-16-80)
 - vii. Contract or agreement references; and (1-16-80)
 - viii. Description, including quantity, sizes, specifications brand name, services performed, etc.;

(1-16-80)

c. Capitalization of Assets. Major movable equipment shall be capitalized. Minor movable equipment shall not be capitalized. The cost of fixed assets and major movable equipment must be capitalized and depreciated over the estimated useful life of the asset (~~SSA-HM-15 PRM~~, Section 108.1). This rule shall apply except as to the provisions of Section 106 of ~~HM-15 PRM~~ for small tools, etc. ~~(+1-4-85)(7-1-99)T~~

i. Completed depreciation records must meet the following criteria for each asset: (1-16-80)

- (1) Description of the asset including serial number, make, model, accessories, and location. (1-16-80)
- (2) Cost basis should be supported by invoices for purchase, installation, etc. (1-16-80)
- (3) Estimated useful life. (1-16-80)
- (4) Depreciation method such as straight line, double declining balance, etc. (1-16-80)
- (5) Salvage value. (1-16-80)
- (6) Method of recording depreciation on a basis consistent with accounting policies. (1-16-80)
- (7) Report additional information, such as additional first year depreciation, even though it isn't an allowable expense. (1-16-80)
- (8) Reported depreciation expense for the year and accumulated depreciation shall tie to the asset ledger. (1-16-80)

ii. Depreciation Methods and Lives. (12-31-91)

(1) Methods. Straight line depreciation is always acceptable. Methods of accelerated depreciation are acceptable only upon authorization by the Office of Audit or its successor organization. Additional first year depreciation is not allowable. (4-28-89)

(2) Depreciable Lives. The life of any asset may not be shorter than ~~the American Hospital Association the useful life stated in the publication, Estimated Useful Lives of Depreciable Hospital Assets, 1993 revised edition Guidelines Lives, which is hereby incorporated by reference into these rules.~~ Deviation from these guidelines will be allowable only upon authorization from the ~~Department, Office of Audit or its successor organization.~~ A copy of this document may be obtained from the American Hospital Association Guidelines is included in Section 401 American Hospital Publishing, Inc., 211 E. Chicago Ave., Chicago, IL. 60611. Where guidelines do not provide a materially similar life for technical equipment, AHA guidelines will be used. ~~(7-1-97)(7-1-99)T~~

iii. Lease Purchase Agreements. Lease purchase agreements may generally be recognized by the following characteristics: (1-16-80)

- (1) Lessee assumes normal costs of ownership, such as taxes, maintenance, etc.; (4-28-89)
- (2) Intent to create security interest; (1-16-80)
- (3) Lessee may acquire title through exercise of purchase option which requires little or no additional payment or, such additional payments are substantially less than the fair market value at date of purchase; (1-16-80)
- (4) Noncancellable or cancellable only upon occurrence of a remote contingency; and (1-16-80)
- (5) Initial loan term is significantly less than the useful life and lessee has option to renew at a rental price substantially less than fair rental value. (1-16-80)

iv. Assets acquired under such agreements will be viewed as contractual purchases and treated

accordingly. Normal costs of ownership such as depreciation, taxes and maintenance will be allowable as determined in this chapter. Rental or lease payments will not be reimbursable. (12-31-91)

- d. Personnel. Complete personnel records normally contain the following: (1-16-80)
 - i. Application for employment. (1-16-80)
 - ii W-4 Form. (1-16-80)
 - iii. Authorization for other deductions such as insurance, credit union, etc. (1-16-80)
 - iv. Routine evaluations. (1-16-80)
 - v. Pay raise authorization. (1-16-80)
 - vi. Statement of understanding of policies, procedures, etc. (1-16-80)
 - vii. Fidelity bond application (where applicable). (1-16-80)
- 05. Internal Control.** (1-16-80)
 - a. A system of internal control is intended to provide a method of handling all routine and nonroutine tasks for the purpose of: (1-16-80)
 - i. Safeguarding assets and resources against waste, fraud, and inefficiency. (1-16-80)
 - ii. Promoting accuracy and reliability in financial records. (1-16-80)
 - iii. Encouraging and measuring compliance with company policy and legal requirements. (1-16-80)
 - iv. Determining the degree of efficiency related to various aspects of operations. (1-16-80)
 - b. An adequate system of internal control over cash disbursements would normally include: (1-16-80)
 - i. Payment on invoices only, or statements supported by invoices. (1-16-80)
 - ii. Authorization for purchase such as a purchase order. (1-16-80)
 - iii. Verification of quantity received, description, terms, price, conditions, specifications, etc. (1-16-80)
 - iv. Verification of freight charges, discounts, credit memos, allowances, and returns. (1-16-80)
 - v. Check of invoice accuracy. (1-16-80)
 - vi. Approval policy for invoices. (1-16-80)
 - vii. Method of invoice cancellation to prevent duplicating payment. (1-16-80)
 - viii. Adequate separation of duties between ordering, recording, and paying. (1-16-80)
 - ix. System separation of duties between ordering, recording, and paying. (1-16-80)
 - x. Signature policy. (1-16-80)
 - xi. Prenumbered checks. (1-16-80)
 - xii. Statement of policy regarding cash or check expenditures. (1-16-80)

- xiii. Adequate internal control over the recording of transactions in the books of record. (1-16-80)
- xiv. An imprest system for petty cash. (1-16-80)
- 06. Accounting Practices.** Sound accounting practices normally include the following: (1-16-80)
 - a. Written statement of accounting policies and procedures, including policies of capitalization, depreciation and expenditure classification criteria. (1-16-80)
 - b. Chart of accounts. (1-16-80)
 - c. A budget or operating plan. (1-16-80)

3554. PATIENT FUNDS.

The safekeeping of patient funds, under the program, is the responsibility of the provider. Accordingly, the administration of these funds requires scrupulous care in recording all transactions for the patient. (1-16-80)

01. Use. Generally, funds are provided for personal needs of the patient to be used at the patient's discretion. The provider agrees to manage these funds and render an accounting but may not use them in any way. (1-16-80)

02. Provider Liability. The provider is subject to legal and financial liabilities for committing any of the following acts. This is only a partial listing of the acts contrary to federal regulations: (1-16-80)

a. Management fees may not be charged for managing patient trust funds. These charges constitute double payment as management is normally performed by an employee of the provider and their salary is included in reasonable cost reimbursement. (1-16-80)

b. Nothing is to be deducted from these funds, unless such deductions are authorized by the patient or his agent in writing. (9-1-85)

c. Interest accruing to patient funds on deposit is the property of the patients and is part of the personal funds of each patient. The interest from these funds is not available to the provider for any use, including patient benefits. (1-16-80)

03. Fund Management. Proper management of such funds would include the following as minimum: (1-16-80)

- a. Savings accounts, maintained separately from facility funds. (1-16-80)
- b. An accurate system of supporting receipts and disbursements to patients. (1-16-80)
- c. Written authorization for all deductions. (1-16-80)
- d. Signature verification. (1-16-80)
- e. Deposit of all receipts of the same day as received. (1-16-80)
- f. Minimal funds kept in the facility. (1-16-80)
- g. As a minimum these funds must be kept locked at all times. (1-16-80)
- h. Statement of policy regarding patient's funds and property. (1-16-80)
- i. Periodic review of these policies with employees at training sessions and with all new employees upon employment. (1-16-80)

j. System of periodic review and correction of policies and financial records of patient property and funds. (1-16-80)

3565. DRUGS.

The rules governing payment for prescription drugs to outpatients are contained in Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, Sections 126 through Subsection 090.01, "Rules Governing Medical Assistance". (12-31-91)

01. Nonlegend Drugs. (7-1-93)

a. For providers which have no pharmacy on the premises, reimbursement will be available for nonlegend drugs subject to a test of reasonableness related to the market place and must not exceed the pharmacist's charges to private pay patients. This means that charges to the patient may not exceed the billing to the provider including, but not limited to, adjustments by discounts or terms. (9-1-85)

b. For providers who have a pharmacy on the premises, reimbursement will be available for nonlegend drugs at cost plus a dispensing fee established by the ~~Bureau~~ Division of Medicaid ~~Policy~~. (~~12-31-91~~)(7-1-99)T

02. Record-Keeping Requirements. According to requirements in the Providers Reimbursement Manual ~~HM-15~~ PRM, Section 2104, the provider, as part of its financial record keeping responsibility under the program, must have on supplier invoices all needed cost verification information including name brand, quantity, form and strength of the drugs supplied and the provider's actual cost. In the absence of such information and in accordance with Section 1815 of the Social Security Act and Section 405.453 of the regulations, the Department must deny charges for unlabeled drugs because of inadequate records. Any cost reductions received on drug purchases including, but not limited to, discounts (cash, trade, purchase and quantity), or rebates, must also be clearly reflected on the individual invoices or related documentation. (~~1-16-80~~)(7-1-99)T

3576. ACCOUNTING TREATMENT.

Generally accepted accounting principles, concepts, and definitions shall be used except as otherwise specified. Where alternative treatments are available under GAAP, the acceptable treatment will be that one which most clearly attains program objectives. (1-16-80)

01. Final Payment. A final settlement will be made based on the reasonable cost of services as determined by audit, limited in accordance with other sections of this chapter. In addition, an efficiency incentive will be allowed to low cost providers in accordance with the provisions of Section 255. (12-31-91)

02. Overpayments. As a matter of policy, recovery of overpayments will be attempted as quickly as possible consistent with the financial integrity of the provider. (1-16-80)

03. Other Actions. Generally overpayment shall result in two (2) circumstances: (1-16-80)

a. If the cost report is not filed the sum of the following shall be due: (1-16-80)

i. All payments included in the period covered by the missing report(s). (1-16-80)

ii. All subsequent payments. (1-16-80)

b. Excessive reimbursement or noncovered services may precipitate immediate audit and settlement for the period(s) in question. Where such a determination is made, it may be necessary that the interim reimbursement rate (IRR) will be reduced. This reduction shall be designated to effect at least one of the following: (1-16-80)

i. Discontinuance of overpayments (on an interim basis). (1-16-80)

ii. Recovery of overpayments. (1-16-80)

358. NOTICE OF PROGRAM REIMBURSEMENT-

Following receipt of the interim final audit report from the Office of Audit, the Bureau of Medicaid Policy or its successor agency will review that report to assure appropriate consistency of the audit with methods and elements used in setting interim rates; current rules; current policies and rule interpretations; the treatment of other providers; and other considerations necessary to finalize the audit. In the event that the Bureau of Medicaid Policy desires further documentation from the provider in order to finalize the audit, the provider will be allowed not less than thirty (30) days in which to submit such documentation. Thereafter a final audit report and a certified letter, setting forth the amounts of underpayment or overpayment made to the provider, with a return receipt requested, will be sent to the provider. The certified letter is the notice of program reimbursement. Where the determination in the notice shows that the provider is indebted to the Department because total interim and other payments exceed allowed reimbursement, the Department will take the necessary action to recover overpayments, including the suspension of interim payments sixty (60) days after the provider's receipt of the notice. Such action of recovery or suspension will continue even after a request for an administrative review or hearing is filed pursuant to provisions of Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Section 330, "Rules Governing Contested Cases and Declaratory Rulings," if the review or hearing results in a revised determination, appropriate adjustments will be made to the settlement amount. (12-31-91)

359. INTEREST CHARGES ON OVERPAYMENTS AND UNDERPAYMENTS TO PROVIDERS-

The Department will charge interest on overpayments and pay interest on underpayments to providers as follows:

(4-28-89)

01. Interest After Sixty (60) Days Of Notice. If full repayment from the indebted party is not received within sixty (60) days after the provider has received notice of program reimbursement, interest will accrue from the date of receipt of the notice of program reimbursement as defined in Section 358, and will be charged on the unpaid settlement balance for each thirty (30) day period that payment is delayed. Periods of less than thirty (30) days will be treated as a full thirty (30) day period, and the thirty (30) day interest charge will be applied to any unpaid balance. Each payment will be applied first to accrued interest, then to the principal. Interest accrued on overpayments and interest on funds borrowed by a provider to repay overpayments are not an allowable interest expense. (12-31-91)

02. Waiver Of Interest Charges. When the Department determines an overpayment exists, it may waive interest charges if it determines that the administrative costs of collecting exceeds the charges. (4-28-89)

03. Rate Of Interest. The interest rate on overpayments and underpayments will be the statutory rate as set forth in Section 28-22-104, Idaho Code, compounded monthly. (4-28-89)

04. Retroactive Adjustment. The balance and interest shall be retroactively adjusted to equal the amounts that would have been due based on any changes which occur as a result of the final determination in the administrative review and judicial appeal process. Interest penalties shall only be applied to unpaid amounts and shall be subordinated to final interest determinations made in the judicial review process. (4-28-89)

360. RECOVERY METHODS-

Recovery following notice of program reimbursement shall be effected by one (1) of the following methods:

(4-28-89)

01. Lump Sum Voluntary Repayment. Pursuant to the provider's receipt of the notice of program reimbursement, the provider refunds the entire overpayment to the Department. (4-28-89)

02. Periodic Voluntary Repayment. The provider may request in writing that recovery of the overpayment be made over a period of twelve (12) months or less. The provider must adequately document the request by demonstrating that the financial integrity of the provider would be irreparably compromised if repayments occurred over a shorter period of time than requested. The request must be made within thirty (30) days of receipt of the notice of program reimbursement. (4-28-89)

03. Department Initiated Recovery. The Department shall recover the entire unpaid balance of the overpayment of any settlement amount in which the provider does not respond to the notice of program reimbursement within thirty (30) days of receipt. (4-28-89)

~~04. Recovery From Medicare Payments.~~ The Department may request that Medicare payments be withheld in accordance with 42 CFR, Subpart C, Section 405.375. (4-28-89)

~~05. Other Actions For Recovery.~~ If the Department cannot make recovery by the above methods it may initiate action to recover amounts due from the provider by making recovery from other facilities or entities owned, operated or otherwise related to the provider or by taking action to collect directly from the owner or owners of the facility. (4-28-89)

~~361-57.~~ -- 399. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

~~401. AMERICAN HOSPITAL ASSOCIATION GUIDELINE LIVES (RESERVED).~~

~~01. Estimated Useful Life Of Land Improvements, Buildings, And Fixed Equipment. (7-1-93)~~

LAND IMPROVEMENTS	YEARS
Fencing Brick or stone	25
Chain link	15
Wire	5
Wood	8
Flagpole	20
Paving (including roadways, walks, and parking) Asphalt	15
Concrete	20
Gravel	5
Retaining wall	20
Shrubs, lawns, and trees	10
Sign	12
Turf, artificial	5
Underground sewer and water lines	30
Yard lighting	15
BUILDINGS	YEARS
Boiler house	15-25
Garage Masonry	25
Wood frame	15
Masonry, reinforced concrete frame.	25-30
Masonry, steel frame, fireproofed	25-30
Masonry, steel frame, not fireproofed	20-25
Masonry, wood frame	20-25

Multilevel parking structure, masonry	20-25
Residence Masonry	20-25
Wood frame	15-20
Storage building	20
FIXED EQUIPMENT – BUILDING SERVICES	YEARS
Central clock system	20
Central television antenna system	15
Electric lighting and power feed wiring	20
Conduit and wiring	20
Fixtures	20
Switch gear	20
Transformer	20
Elevator Dumbwaiter	20
Freight	20
Passenger, high-speed automatic	20
Passenger, other	20
Heating/ventilating/air conditioning system	20
Air conditioning system, all equipment and units- Large – over 20 tons	15
Medium - 5 to 15 tons	10
Small – under 5 tons	8
Boiler	20
Compressor, air	15
Condensate tank	10
Condenser	15
Controls	15
Cooler and dehumidifier	10
Cooling tower Metal	15
Wood	15
Duct work	20
Fan, air handling and ventilating.	15
Filter	15
Furnace, domestic type	15
Incinerator, indoor	10
Oil storage tank	20
Piping	20

Precipitator	10
Pump	10
Radiator, cast iron	25
Radiator, finned tube	15
Unit heater	10
Nurse call system	15
Oxygen, gas, air piping	20
Paging system	15
Plumbing composite	20
Fixtures	20
Piping	25
Pump	15
Water heater, commercial	15
Water storage tank	20
Sprinkler and fire protection system	25
Fire alarm system	15
Fire pump	20
Smoke and heat detectors	10
Sprinkler system	25
Tank and Tower	25
Sewerage, composite	25
Piping	20
Sump pump and sewerage ejector	10
Telephone system	10
Vacuum cleaning system	15
OTHER FIXED EQUIPMENT	YEARS
Built-in bench/bin/cabinet counter/shelving	20
Carpentry work	15
Carpeting	5
Conveying system	15
Generator set	20
Hood, fume	15
Sink and drainboard	20
Sterilizer, built-in	15

02. ~~Estimated Useful Life Of Individual Items Of Major Movable Equipment.~~

(7-1-93)

ITEM	YEARS
Accelerator	7
Accounting/bookkeeping machine	5
Adding machine	5
Air conditioner (window)	5
Ambulance	4
Amplifier	10
Analyzer, gas	10
Analyzer, oxygen	10
Anesthesia unit	10
Ankle exerciser	15
Apparatus Anesthesia	12
Resuscitating	10
Blood transfusion	15
Bone surgery	10
Aspirator	10
Audiometer	10
Autoclave	20
Automobile, delivery	4
Automobile, passenger	4
Autoscaler, ionic	10
Balance	7
Basal metabolism unit	8
Bassinet	15
Bassinet, heated	10
Bath, paraffin	10
Bath, serological	10
Bath, water, laboratory	10
Bed, electric	15
Bed, manual	15
Bench, metal or wood	15
Bin, metal or wood	20
Biochemical analysis unit, micro	8

ITEM	YEARS
Blanket drier	15
Blanket warmer	15
Bleach tank	15
Block, butcher or meat	10
Blood chemistry analyzer, automated	8
Blood cell counter	5
Blood gas analyzer	8
Blood gas apparatus, volumetric	8
Blood warmer	10
Blood warmer coil	8
Boiler, copper	20
Bookcase, metal	20
Bottle washer	10
Breathing unit, positive pressure	8
Broiler	10
Buffer, electric	5
Bulletin Board	10
Burnisher silverware	15
Cabinet, bedside	15
Cabinet, metal or wood	15
Cabinet, solution	15
Calculator	5
Camera	5
Camera/TV monitoring/color/black & white	5
Camera/videotape/color/black & white	5
Canopy, ventilating, ironer	15
Capsule machine	10
Cardioscope	8
Carpeting	5
Cart, food/tray, heat refrig	10
Cash register	5
Cassette changer	8
Cautery unit	10
Central processing unit	10

ITEM	YEARS
Centrifuge	10
Chair, dental	15
Chair, executive	15
Chair, metal or wood	10
Chair, specialist	15
Chair, wheel	5
Chart rack	20
Check signer	10
Chromatograph, gas	10
Clock	10
Clothes locker, fiberglass or metal	20
Clothes locker, laminate or wood	12
Cobalt unit	8
Coffee grinder	10
Cold pack unit, floor	10
Collator, electric	10
Collector, silver, automatic	8
Colorimeter	8
Compactor, waste	10
Compressor, air	12
Conductivity tester	5
Conveyer, tray	10
Conveying system, laundry	10
Cooker, pressure, food	10
Cooker, starch	20
Cooler, walk-in, freestanding	15
Cooler, water	10
Counter, food service	15
Croupette	10
Crusher, syringe	10
Cryosurgical unit	10
Cryostat	10
Curtain stretcher	15
Cutter, cloth, electric	10

ITEM	YEARS
Cutter, food	10
Cystometer	10
Cystoscooper	10
Dampener	15
Data card processing unit including keypunch, verifier, reader, sorter	10
Data printing unit	5
Data storage unit, mechanical	10
Data storage unit, nonmechanical	15
Data tape processing unit including controller, drive, tape deck	5
Decalcifier	10
Defibrillator	8
Densitometer, recording	8
Dermatome	10
Desk, metal or wood	15
Diathermal apparatus	10
Diathermy unit	10
Dictating equipment	5
Dilutor	10
Dish sterilizer	10
Dishwasher	10
Disinfecter	10
Dispenser, alcohol	10
Dispenser, butter, refrigerated	10
Dispenser, milk or cream	10
Distilling apparatus	15
Dresser	15
Drill press	20
Dryer, clothes	10
Dryer, hair	5
Dryer, sonie	10
Drying oven, paint shop	10
Duplicator	5
Electrocardiograph	7
Electrocephalograph	7

ITEM	YEARS
Electromyograph	7
Electrophoresis unit	8
Electrosurgical unit	8
Ether-suction unit	10
Evacuator	10
Exercise apparatus	15
Extractor, fruit juice	10
Extractor, laundry	15
Fire extinguisher	20
Floor scrubbing machine	5
Floor waxing machine	5
Flowmeter	10
Fluorimeter	10
Fluoroscope	8
Folder, flatwork	15
Food chopper	10
Frame, turning	15
Fryer, deep fat	10
Furnace, laboratory	10
Glove conditioner	10
Glove dryer	10
Glove powdering machine	10
Glove tester	10
Graphotype	15
Griddle	10
Grinder, bench	10
Grinder, food waste	10
Hamper	5
Heart-lung system	8
Hemoglobinometer	10
Hemodialysis unit	5
Homogenizer	10
Hot plate	5
Humidifier	10

ITEM	YEARS
Hydrotherapy equipment	15
Hyfreecator	10
Hypothermia apparatus	10
Ice cream freezer	10
Ice cream storage cabinet	10
Ice cube making equipment	10
Illuminator unit, multifilm	15
Illuminator unit, single	15
Imprinter, embossed plant	10
Incubator, laboratory	10
Incubator, nursery	10
Indicator, remote	10
Infusion pump	10
Inhalator	10
Intereom	10
Ironer, flatwork	15
Ironing board	15
Isotope equipment	8
Jointer/planner, electric	20
Kettle, steam jacketed	15
Kickbucket	10
Kidney dialyzer	5
Kiln	15
Kymograph	10
Ladder	10
Lamp, deep therapy	10
Lamp, emergency	10
Lamp, infrared	10
Lamp, mercury quartz	10
Lamp microscope	10
Laryngoscope	10
Lathe	15
Lawn mower, power	3
Library furnishings	20

ITEM	YEARS
Lifter, patient	10
Light, delivery	15
Light, examining	10
Light, operating	15
Light, portable, emergency	10
Linen cart	10
Linen dryer	15
Linen marker	15
Linen press	15
Linen table	15
Linen washer	15
Mailing machine	10
Mannequin	10
Marking machine	15
Mattress	8
Meat chopper	10
Meter, pH	10
Microfilm unit	10
Microscope	10
Microprojector	15
Microtome	10
Mixer, commercial type	10
Model, anatomical	10
Monitor, TV	5
Mop truck	10
Narcotic safe	25
Nebulizer	10
Operating stool	15
Ophthalmoscope	10
Oscilloscope	7
Osometer	10
Otoscope	10
Ottoman	10
Oven, baking	10

ITEM	YEARS
Oven, microwave	5
Oven, paraffin	10
Oven, roasting	10
Oven, sterilizing	10
Oximeter	10
Oxygen tank, motor, and truck	8
Pacemaker, cardiac	5
Paint spray booth	15
Paint spraying machine	10
Paper baler	15
Parallel bars	15
Patient monitoring equipment	7
Peeler, vegetable, electric	10
Photocoagulator	10
Photocopier	5
Photography apparatus, gross pathology	10
Photometer	8
Physician's in and out register/portable	10
Piano	20
Pipette, automatic	10
Planer and shaper, electric	10
Polisher, floor	5
Polishing and buffing machine	5
Power supply	10
Press, laundry	15
Proctoscope	5
Projection machine	10
Projector, slide	10
Prothrombin timer, automated	10
Pulmonary function equipment	10
Pump, vacuum or pressure	10
Rack, pot or pan	20
Radiation counter	8
Radiation meter	8

ITEM	YEARS
Radigraphic-fluoroscopic combination	8
Radioactive source, cobalt	5
Range, household	10
Recorder, laboratory	10
Refractometer	10
Refrigerator, blood bank	10
Refrigerator, commercial or domestic type	10
Remote control receiver	10
Resuscitator	10
Rinser, sonic	10
Safe	20
Sanitizer	10
Saw, autopsy	10
Saw, bench, electric	20
Saw, neurosurgery	10
Saw, surgical, electric	10
Scale, laundry, movable	10
Scale, laundry, platform	15
Scale, postal	10
Scanner, isotope	8
Scintillation scaler	8
Seriograph, automatic	10
Sewing machine	15
Shaking machine	10
Sharpener, microtome knife	12
Shears, squaring, floor	12
Shelving, portable, steel	20
Shoulder wheel	20
Sigmoidoscope	5
Skeleton	10
Slicer, bread	10
Slicer, meat	10
Slide stainer, laboratory	10
Slit lamp	10

ITEM	YEARS
Snow-blower	5
Soap dispenser	10
Spectroscope	10
Spectrophotometer	8
Sphygmomanometer	10
Stall bars	20
Stamp machine	10
Stand, irrigating	15
Stapler, electric or air	10
Steam pack equipment	10
Steamer, vegetable.	10
Stencil machine	10
Sterilizer, movable	15
Stethophone	10
Stimulator, muscle	10
Stirrer	10
Stock pot	10
Stool, metal or wood	20
Stretcher	15
Suction pump	10
Table, anesthetic	15
Table, autopsy	20
Table, examining	15
Table, metal	20
Table, obstetrical	20
Table, operating	15
Table, refrigerated	10
Table, therapy	15
Table, wood	15
Tank, hot water	15
Tank, paraffin	15
Tank, soap	15
Television receiver	5
Tent, oxygen	8

ITEM	YEARS
Thermometer, electronic	10
Time recording equipment	10
Tissue processor	10
Titrator, automatic	10
Toaster, commercial type	10
Traction unit	10
Tractor	10
Transcribing equipment	10
Treadmill, electric	8
Truck, hot food	10
Tube tester	10
Tumbler	15
Typewriter, electric	5
Typewriter, manual	8
Ultrasonic cleaner	10
Urn, coffee	10
Urn, milk	10
Vacuum cleaner	8
Vending machine	10
Venetian blind	10
Ventilating fan	15
Vibrator	10
Video cassette recorder	5
Warmer, dish	10
Warmer, food	10
Washing machine, commercial type	10
Washing machine, domestic type	8
Waste receptacle, metal	10
Water cooler, bottle type or fountain type	10
Water purifier or softener	12
Wheelchair	5
X-ray developing tank	15
X-ray film dryer	8
X-ray film processor	8

ITEM	YEARS
X-ray image intensifier	5
X-ray unit, deep therapy	8
X-ray unit, mobile	8
X-ray unit, superficial therapy	8

(7-1-93)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.19 - RULES FOR ADULT FOSTER CARE HOMES IN IDAHO

DOCKET NO. 16-0319-9601

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-3305, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the August 7, 1996 Administrative Bulletin, Volume 96-8, page 160.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact John Hathaway at (208) 364-1863.

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

IDAPA 16
TITLE 03
Chapter 19

RULES FOR ADULT FOSTER CARE HOMES IN IDAHO

This Rule Is Being Repealed In Its Entirety.

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-8, August 7, 1996, page 160.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
2000 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES
DOCKET NO. 16-0319-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-3505 and 39-3525(2), Idaho Code.

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

August 11, 1999, at 7:00 p.m.
Coeur d'Alene Inn, Hayden Room
414 West Appleway Ave., Coeur d'Alene, Idaho;

August 18, 1999, at 7:00 p.m.
Ameritel Inn, Pebble Creek Room
1440 Bench Rd., Pocatello, Idaho;

August 23, 1999, at 7:00 p.m.
Ameritel Inn, Tablerock Room
7965 W. Emerald, Boise, 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, to the agency address below.

DESCRIPTIVE SUMMARY: The 1996 Legislature passed H.B. 742 which amended the Idaho Board and Care Act and the Residential Care for the Elderly Act. Among other items it required that anyone provided care commercially to the elderly or individuals with a physical disability, mental illness, or developmental disability to meet at a minimum the requirements of the adult foster care or residential care rules depending upon the size of the facility. This includes adult foster care homes, 1501 homes, personal care services homes, specialized family homes, and residential care facilities.

In the past, each of these types of facilities operated with differing minimum requirements for safety, supervision, and care. The Department of Health and Welfare believes that a better approach is to develop one common set of standards for all residential facilities which must be licensed regardless of program type.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to Protect public health, safety, or welfare, and to comply 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:

In accordance with the authority granted us in Sections 39-3505 and 39-3525(2), Idaho Code, these rules will require potential facilities to pay a building evaluation fee to determine if the building chosen to be the facility's physical plant, meets the requirements prior to being licensed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact John Hathaway.

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

DATED this 21st day of June, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
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. 16-0319-9901

IDAPA 16
TITLE 03
Chapter 19

16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES

000. LEGAL AUTHORITY.

Pursuant to Section 39-3371 and Section 39-3561, Idaho Code, the Idaho Board of Health and Welfare is authorized to adopt and enforce rules and standards designed to protect the health and safety of residents in adult foster care homes and to provide adequate nutrition, supervision and meaningful life activities. Sections 39-3393 and 39-3580, Idaho Code, extend the adult foster care home provisions to any individual providing care commercially to persons who are developmentally disabled, mentally ill, physically disabled, or elderly. (7-1-99)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 16.03.19.000 et seq., Idaho Department of Health and Welfare Rules IDAPA 16, Title 03, Chapter 19, "Rules Governing Certified Family Homes". (7-1-99)T

02. Scope. These rules include minimum standards and administrative requirements for any individual who is paid to care for an adult in the individual's home, if the adult cared for is developmentally disabled, mentally ill, physically disabled, or elderly, and needs assistance with activities of daily living.

002. (RESERVED)

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". (7-1-99)T

004. WAIVERS.

Waivers may be granted by the Department when the following conditions are met: (7-1-99)T

01. Written Request. A written request for a waiver must be submitted to the Department. The request must include the following: (7-1-99)T

a. Reference to the section of the rules for which the waiver is requested; (7-1-99)T

b. Reasons that show good cause why the waiver should be granted, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the waiver, such as additional floor space or additional staffing; (7-1-99)T

c. Written documentation that assures residents' health and safety will not be jeopardized if the waiver is granted. (7-1-99)T

02. One Year Limit On Waivers. A waiver may be granted for a period of no more than one (1) year. (7-1-99)T

03. Renewing A Waiver. The appropriateness of renewing a waiver shall be reviewed by the Department during the annual survey. If the home operator wishes to review the waiver, a request (unless specified otherwise) must be submitted to the certifying agency in writing. (7-1-99)T

04. Decision To Grant A Waiver. The decision to grant a waiver in one (1) home shall not be considered as precedent or be given any force or effect regarding any other home. (7-1-99)T

005. EXEMPTIONS.

The provisions of these rules do not apply to any of the following: (7-1-99)T

01. Health Facility. The provisions of these rules do not apply to any health facility defined by Title 39, Chapter 13, Idaho Code. (7-1-99)T

02. Alternate Living Arrangements. The provisions of these rules do not apply to any home that is limited to providing only housing, meals, transportation, housekeeping, or recreational and social activities, or that has residents independently accessing supportive services from an entity approved to provide such services in Idaho and holding no legal ownership interest in the home. (7-1-99)T

03. Relatives. The provisions of these rules do not apply to any arrangement for the receiving and care of persons by a relative, except when the caretaker is paid for the care through a state or federal program, in which case the caretaker relative and the care setting must meet the requirements of the program that funds the care.

006. SERVICES AVAILABLE.

The certified family home shall provide a home setting and supportive services according to the resident's Negotiated Service Agreement. (7-1-99)T

007. (RESERVED).

008. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference. (7-1-99)T

01. The Uniform Building Code, 1988 Edition. Available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, CA, 90601. (7-1-99)T

02. IDAPA 16.03.22, "Rules For Licensed Residential And Assisted Living Facilities In Idaho," Sections 927 and 930. (7-1-99)T

009. (RESERVED).

010. DEFINITIONS.

01. Abuse. The nonaccidental infliction of physical pain, injury, or mental injury. (7-1-99)T

02. Activities. All organized and directed social, habilitative, and rehabilitative services a home provides or arranges. (7-1-99)T

- 03. Activities Of Daily Living.** The performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communicating, continence, managing money, mobility, and associated tasks. (7-1-99)T
- 04. Adequate Care.** The care and supervision provided to a resident to meet his needs for room, board, and assistance as described in the Negotiated Service Agreement. (7-1-99)T
- 05. Adult.** A person who has attained the age of eighteen (18) years. (7-1-99)T
- 06. Adult Foster Care Home.** A family home in which one (1) or two (2) adults live who are not able to reside in their own home and who require care, help in daily living, protection, security, and encouragement toward independence. Adult foster care homes are subject to these rules. (7-1-99)T
- 07. Advanced Directive.** A written instruction, such as a living will or durable power of attorney for health care, recognized under State Law, whether statutory or as recognized by the courts of the State, and relates to the provision of medical care when the individual is unable to communicate. (7-1-99)T
- 08. Advocate.** An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of persons with mental illness, developmental disabilities, physical disabilities, and/or who are elderly. (7-1-99)T
- 09. Ambulatory Person.** A person who, unaided by any other person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs. (7-1-99)T
- 10. Assessment.** The conclusion reached using uniform criteria developed by the Department and relevant councils for determining a person's need for care and services. (7-1-99)T
- 11. Assistance With Medications.** Refer to the current Administrative Rules of the Idaho State Board of Nursing, IDAPA 23.01.01, "Rules of the Board of Nursing," Section 400, Subsections 400.02, 400.04, and 400.05. (7-1-99)T
- 12. Basement.** Any floor level below the first story in a home except that a floor level in a home having only one (1) floor level shall be classified as a basement. (7-1-99)T
- 13. Board.** The Idaho State Board of Health and Welfare. (7-1-99)T
- 14. Care And Supervision.** The provision by a provider of one (1) or more of the following services based on each resident's Negotiated Service Agreement: (7-1-99)T
- a. Assisting the resident with activities of daily living; (7-1-99)T
 - b. Arranging for supportive services; (7-1-99)T
 - c. Being aware of the resident's general whereabouts; (7-1-99)T
 - d. Monitoring the activities of the resident while on the premises of the home and knowledge of the resident's whereabouts to ensure the resident's health, safety, and well-being; (7-1-99)T
 - e. Assisting residents with self-administration of medication; (7-1-99)T
- 15. Certificate.** A permit issued by the Department to operate a certified family home. (7-1-99)T
- 16. Certified Family Home.** A family home in which an adult chooses to live who is not able to reside in his own home and who requires care, help in daily living, protection, security, and encouragement toward independence. This term includes adult foster care homes as defined in Section 39-3302(5) and Section 39-3502(5), Idaho Code, as well as any home in which care is provided commercially to one (1) or two (2) persons. In this chapter a Certified Family Home shall be referred to as "home". (7-1-99)T

- 17. Certified Family Home Care Provider.** An adult member of the certified family home responsible for providing care to the resident or residents. The care provider and the legal property owner may not necessarily be the same person. (7-1-99)T
- 18. Certified Family Home Care Agreement.** A written, signed, and dated agreement between a certified family home and a resident specifying the amount of payment to be paid by the resident and the method of payment. (7-1-99)T
- 19. Certified Family Home Family.** All individuals related by blood or marriage, other than residents, residing in the certified family home. (7-1-99)T
- 20. Certifying Agency.** The unit of the Department that conducts inspections and surveys and that issues certificates based on the home's compliance with this chapter. The unit of the Department may differ depending on the type of resident and the geographic area of the State. (7-1-99)T
- 21. Chemical Restraint.** The use of any medication that results or is intended to result in the modification of behavior. (7-1-99)T
- 22. Client Of The Department.** Any person who receives financial aid and/or services from an organized program of the Department. (7-1-99)T
- 23. Criminal Offense.** Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section 4A1.2(o), and 18 U.S.C. Sections 1001 through 1027. (7-1-99)T
- 24. Deficiency.** A determination of non-compliance with a specific rule or part of a rule. (7-1-99)T
- 25. Department.** The Idaho Department of Health and Welfare. (7-1-99)T
- 26. Developmental Disability.** A developmental disability as defined in Section 66-402, Idaho Code, means chronic disability that occurs before the age of twenty-two (22), and: (7-1-99)T
- a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism, or other conditions found to be closely related to or similar to one of these impairments that requires similar treatment or services or is attributable to dyslexia resulting from such impairments; and (7-1-99)T
 - b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity of independent living, or economic self-sufficiency; and (7-1-99)T
 - c. Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of life-long or extended duration and individually planned and coordinated. (7-1-99)T
- 27. Director.** The Director of the Idaho Department of Health and Welfare or his designee. (7-1-99)T
- 28. Exploitation.** An action which may include, but is not limited to, the misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage. (7-1-99)T
- 29. Hands On.** Physical assistance to the resident beyond verbal prompting. (7-1-99)T
- 30. Immediate Jeopardy.** The certifying agency has determined that residents are subject to an imminent or substantial danger. (7-1-99)T
- 31. Independent Mobility.** A resident's ability to move about freely of their own choice with or without the assistance of a mobility device such as a wheelchair, cane, crutches, or walker. (7-1-99)T

32. Individual Support Plan. The written individualized plan approved by the Department, which must be based on a person-centered planning and assessment process outlining the consumers' needs, desires, goals, and objectives, and include the specific types, amounts, frequency, and duration of waiver services to be provided by the agency. (7-1-99)T

33. Level Of Care. A categorical assessment of the resident's functional ability and the degree of care required in the areas of activities of daily living, supervision, response to emergency situation, mobility, medications and behavior management. (7-1-99)T

34. Monitoring Visit. A representative of the Department visiting a home for the purpose of verifying a home's correction of deficiencies or to observe the orderly transfer of residents and/or a home closure. (7-1-99)T

35. Neglect. The failure to provide those goods or services which are reasonably necessary to sustain the life and health of a person pursuant to Section 39-5302(8), Idaho Code. (7-1-99)T

36. Negotiated Service Agreement. The agreement between the resident and/or their representative and the home, based on the assessment, physician's orders, if any, admission records, if any, and desires of the resident, and which outlines services to be provided and the obligations of the home and the resident. (7-1-99)T

37. Owner. Any recognized legal entity, governmental unit, or person having legal ownership of the certified family home. (7-1-99)T

38. Personal Care Services. Services provided pursuant to Section 39-5601 et seq., Idaho Code. (7-1-99)T

39. PRN. A medication or treatment prescribed by a medical professional to an individual allowing the medication to be given as needed. (7-1-99)T

40. Provider. The member of the family of the home who has primary responsibility for the care of the residents in the home and for compliance with the standards set forth in these rules. The certified family home certificate will be issued in the provider's name. The provider must be at least eighteen (18) years of age and must live in the home. (7-1-99)T

41. Relative(s). Persons related by birth, adoption, or marriage to the first degree and grandparent and grandchild. (7-1-99)T

42. Repeat Deficiency. A violation or deficiency found on a resurvey or revisit that was also found during the previous survey or visit. (7-1-99)T

43. Repeated Noncompliance. A finding of substandard quality of care on three (3) consecutive surveys and/or visits. (7-1-99)T

44. Resident, Certified Family Home. An individual who requires room and board, supervision, and one (1) or more of the following services: protection, assistance with decision-making and activities of daily living, and direction toward self-care skills. A resident of a certified family home is referred to in these rules as "resident". A resident includes all occupants of a certified family home other than the owner, provider, or their immediate families or employees. (7-1-99)T

45. Residential Habilitation. Services consisting of an integrated array of individually-tailored services and supports furnished to an eligible consumer which are designed to assist them to reside successfully in their own homes, with their families, or alternate family home. Residential Habilitation Homes are subject to the provisions of these rules. (7-1-99)T

46. Room And Board. Lodging and meals. (7-1-99)T

47. Self-Administration Of Medication. A resident taking a single dose of medication as a result of an order by a physician or a dentist. The certified family home provider is responsible for providing necessary

assistance to the resident in taking his medication, including reminding the resident to take medication, removing medication containers from storage, assisting with removal of the cap, assisting with the removal of a medication from a container for residents with a disability which prevents independence in this act and observing the resident taking the medication. (7-1-99)T

48. Self-Preservation. A resident's ongoing ability to execute actions necessary to safeguard against personal harm, injury, or accident. (7-1-99)T

49. Service Coordinator. A regionally designated representative of the Department's Adult Services, Mental Health, or Developmental Disabilities Program who is qualified by training and experience including, but not limited to, licensed social worker or registered nurse to develop or coordinate Negotiated Services Agreements for clients of the Department. (7-1-99)T

50. Service Plan. The Negotiated Service Agreement, Personal Care Plan, Plan of Care, or Individual Service Plan. (7-1-99)T

51. Substandard Quality Of Care. A finding by the certifying agency of one (1) or more deficiencies, the existence of which limit(s) the home's ability to deliver adequate care or services. (7-1-99)T

52. Substantial Compliance. A home is in substantial compliance with these rules when there are no deficiencies which would endanger the health, safety, or welfare of the residents. (7-1-99)T

53. Uniform Assessment Instrument. A set of standardized criteria adopted by the Department of Health and Welfare to assess functional and cognitive abilities pursuant to IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients". (7-1-99)T

54. Waiver Services. Home and Community Based (HCBS) Services which are subject to the requirements of these rules. (7-1-99)T

55. 1501 Home. A home authorized by Chapter 284 of the Idaho Session Laws of 1994 (S.B. 1501) codified at Section 39-3561(9) Idaho Code, to provide care and supervision for up to four (4) adults. Certification for a 1501 home is not transferable to another person or location other than as originally certified. Homes certified under this provision shall not be subject to the residential care facility administrator or residential care facility licensing requirements of Title 54, Chapter 42, of the Idaho Code, or Title 39, Chapters 33 and 35 of the Idaho Code. With the exception of the limitation on numbers of residents, 1501 homes are subject to these rules. (7-1-99)T

011. -- 099. (RESERVED).

100. CERTIFICATION.

01. Requirements. (7-1-99)T

a. After July 1, 1999, no person or entity, public or private shall establish or operate a home without first obtaining a certificate issued by the Department; (7-1-99)T

b. Any person or entity proposing to operate a home shall apply for certification to the Department, specifying the types of residents to be served and the level(s) of care to be provided; (7-1-99)T

c. A certificate to provide certified family care shall be issued in the name of the provider applying for certification, and only to the address of the home stated in the application. There shall be no change in the provider or location of the certified family home without a new certification study of the home; (7-1-99)T

d. As a condition of certification, the following goods or services shall be provided to the resident without additional charge: (7-1-99)T

- i. Appropriate, adequate supervision as outlined in the resident's Negotiated Service Agreement; (7-1-99)T
 - ii. Room and board; (7-1-99)T
 - iii. Furnishings and equipment as outlined in Subsection 700.06; (7-1-99)T
 - iv. Essential toiletries listed in Subsection 700.06; (7-1-99)T
 - v. Negotiated Service Agreement development and implementation; (7-1-99)T
 - vi. Activity supplies in reasonable amounts, that reflect the interests of the resident; and (7-1-99)T
 - vii. Arrangement of transportation in reasonable amounts to community, recreational, and religious activities within twenty-five (25) miles of the home. (7-1-99)T
- e. The home and physical premises as well as all records required under these rules, shall be accessible at all times to the certifying agency for the purposes of inspection, with or without prior notification. (7-1-99)T

02. Application For An Initial Certificate. The applicant/provider shall apply for certification on forms provided by the Department, giving such information as the Department shall require, including: (7-1-99)T

- a. A written statement that the applicant has thoroughly read and reviewed this chapter and is prepared to comply with all of its provisions; (7-1-99)T
- b. Satisfactory evidence that the applicant is of reputable and responsible character, including, but not limited to a criminal history clearance as provided in Idaho Department of Health and Welfare Rules, IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". If the applicant is unable to obtain an acceptable criminal history clearance, the Department shall deny the application; (7-1-99)T
- c. Completed application form signed by the applicant/provider; (7-1-99)T
- d. The applicant must provide a written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a care provider in Idaho or any other jurisdiction, or that verifies that the applicant has never been involved in any such action; (7-1-99)T
- e. Any other information that may be requested by the certifying agency for the proper administration and enforcement of the provisions of this chapter; (7-1-99)T
- f. A statement from a licensed electrician or the local/state electrical inspector that all wiring in the home complies with applicable local codes; and (7-1-99)T
- g. If the home is on other than a municipal water supply or sewage disposal system, a statement from the local environmental health agency that the water supply and sewage disposal system meets the legal standards. (7-1-99)T

03. Additional Certification Requirements. (7-1-99)T

- a. Homes shall not be certified for more than two (2) residents; (7-1-99)T
- b. A home cannot be certified if it also provides room and board to any person who is not a resident as defined by these rules or a family member; (7-1-99)T
- c. Homes cannot be certified as a certified family home and for child foster care at the same time; and (7-1-99)T

d. The number, age, and sex of children or other adults in the home shall be taken into account in evaluating the appropriateness of a placement for meeting the needs of an adult. (7-1-99)T

e. Failure of the applicant to cooperate with the Department in the application process shall result in the denial of the application. Failure to cooperate means that the information described in Section 100 of the rules has not been provided, or not provided in the form requested by the certifying agency, or both. (7-1-99)T

04. Effect Of Previous Revocation Or Denial Of A Certificate Or A License. The certifying agency is not required to consider the application of any applicant who has had a health care certificate or license denied or revoked until five (5) years have lapsed from the date of denial or revocation. (7-1-99)T

05. State Certification To Supersede Local Regulation. These rules shall supersede any program of any political subdivision of the state which certifies or sets standards for certified family homes. (7-1-99)T

06. Certification Study. Following receipt of an acceptable application and other required signed documents, the Department shall initiate a certification study. The study shall include a review of all material submitted. The certification study, along with the application and other required material, shall serve as the basis upon which a certificate is issued or denied. The certifying agency shall schedule an on-site interview with the proposed provider and the provider's family to review the certification study, and to verify that the home is in compliance with these rules. A medical or psychological examination of the provider or family members may be required by the Department. (7-1-99)T

07. Provider Training. As a condition of initial certification, all providers shall receive training in the following areas: (7-1-99)T

a. Resident rights; (7-1-99)T

b. The psychosocial and physical needs of the residents; (7-1-99)T

c. The specific services and supervision that each resident requires; (7-1-99)T

d. Certification in first aid and CPR (Cardio-Pulmonary Resuscitation) shall be kept current; (7-1-99)T

e. Emergency procedures; (7-1-99)T

f. Fire safety, fire extinguisher, and smoke alarms; and (7-1-99)T

g. Complaint investigations and survey procedures; (7-1-99)T

08. Ongoing Training. All family home providers shall receive a minimum of eight (8) hours per year of ongoing Department-approved training in the provision of supervision, services, and care, to include the orientation training program required in Section 100 of this rule. (7-1-99)T

101. -- 149. (RESERVED).

150. ISSUANCE OF CERTIFICATES.

01. Provisional Certificate. Homes found to be in substantial compliance with these rules but which fail to comply in every detail may be issued a provisional certificate when failure to comply will not adversely affect the health and safety of the residents. A certificate issued on the basis of substantial compliance is contingent upon the correction of deficiencies in accordance with an agreed upon plan. Provisional certificates may be issued for up to six (6) months. (7-1-99)T

02. Full Certificate. A full certificate shall be valid for a period of time not to exceed twelve (12) months from the date of approval. The certificate shall expire at the end of its stated period unless it is continued in effect by agreement with the Department or by operation of law. (7-1-99)T

a. Each certificate issued shall be only for the premises and persons named in the application and shall not be transferable or assignable; (7-1-99)T

b. The certificate shall be available at the home upon request; and (7-1-99)T

c. The provisional certificate may be replaced with a full certificate when the certifying agency has completed a revisit to the home prior to the expiration of the provisional certificate and has determined that the home qualifies for a full certificate. (7-1-99)T

03. Expiration And Renewal Of Certificates. (7-1-99)T

a. The application for renewal of a certificate shall be submitted on a form prescribed by the certifying agency. The completed application shall be returned to the certifying agency at least thirty (30) days prior to the expiration of the existing certificate. (7-1-99)T

b. The existing certificate, unless suspended or revoked, shall remain in force and effect until the Department has acted upon the application renewal when such application for renewal is timely filed. (7-1-99)T

04. Change Of Ownership Certification Requirements. (7-1-99)T

a. Because certificates are not transferable from one (1) individual to another or from one (1) lessee to another or from one (1) location to another, when a change of ownership, lease, or location is undertaken, the home must be recertified and must follow the same procedure as a home that has never been certified; (7-1-99)T

b. 1501 home status may not be recertified on a transfer between individuals or from one (1) location to another. On recertification of any such home that is transferred, the general provisions of these rules will apply, and the home will be limited to two (2) residents; (7-1-99)T

c. The application for a change of ownership must be submitted to the certifying agency at least sixty (60) days prior to the proposed date of change; and (7-1-99)T

d. An application for change of ownership of a home that is leased from a person who is in litigation for failure to meet licensure standards, or who has had his license revoked, shall include evidence that there is a bonafide arms length agreement and relationship between the two (2) parties. See Subsection 111.02.h. (7-1-99)T

05. Denial Of Certificate. The Department may deny the issuance of a certificate when such conditions exist as to endanger the health, safety, or welfare of any resident or when the home is not in substantial compliance with these rules. Additional causes for denial of a certificate include the following: (7-1-99)T

a. The applicant or provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; or (7-1-99)T

b. The applicant or provider has been guilty of fraud, gross negligence, abuse, assault, battery or exploitation in relationship to the operation of a health facility or certified family home; or (7-1-99)T

c. The applicant or provider has been convicted of a criminal offense described in Section 39-3321(1), Idaho Code, within the past five (5) years; or (7-1-99)T

d. The applicant or provider has been denied or has had revoked any health facility license, residential and assisted living facility license, or certified family home certificate; or (7-1-99)T

e. The applicant or provider has been convicted of operating any health facility, residential and assisted living facility, or certified family home without a license/certificate; or (7-1-99)T

f. The applicant or provider has been enjoined from operating a health facility, residential and assisted living facility, or certified family home; or (7-1-99)T

g. The applicant or provider is directly under the control or influence of any person who is described by Subsections 150.05.a. through 150.05.f. (7-1-99)T

06. Revocation Of Certificate. The Department may revoke any certificate when conditions exist which endanger the health, safety, or welfare of any resident, or when the home is not in substantial compliance with these rules. (7-1-99)T

07. Emergency Powers Of The Director. In the event of an emergency endangering the life or safety of a resident, the Director may summarily suspend or revoke any certified family home certificate. As soon thereafter as practicable, the Director shall provide an opportunity for a hearing in accordance with the provisions of IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (7-1-99)T

08. Uncertified Family Homes. No uncertified family home shall operate in this state: (7-1-99)T

a. An "uncertified family home" shall not operate in the state if it is "operated to provide family home services," is not certified, is not exempt from certification, provides care commercially, and any one (1) of the following conditions exists: (7-1-99)T

i. The home is, or is held out as or represented as, providing care, supervision, and services; or (7-1-99)T

ii. The home accepts or retains residents who demonstrate the need for care, supervision, and services, as defined by these rules. (7-1-99)T

b. Upon discovery of an uncertified family home, the Department shall refer residents to the appropriate placement or adult protective services agency if there is an immediate threat to any resident's health and safety or if the home does not cooperate with the certifying agency to apply for certification, meet certification standards, and obtain a valid certificate. (7-1-99)T

c. A person found to be operating a certified family home without first obtaining a certificate may be referred for criminal prosecution pursuant to Section 39-3381, Idaho Code. (7-1-99)T

09. Placement Of Persons Into An Uncertified Family Home. No person or public agency employee shall place, refer, or recommend placement of a person into a family home which is operating without a certificate. (7-1-99)T

10. Procedure For Hearings For Denial Or Revocation Of A Certificate. (7-1-99)T

a. Immediately upon the denial of any application for a certificate, or the revocation of a certificate, the Department shall notify the applicant or operator in writing by certified mail or by personal service of its decision and the reason for its decision; (7-1-99)T

b. The notification shall also offer the applicant or the operator the opportunity to request an informal prehearing conference during which alternatives to revocation or denial may be discussed; and (7-1-99)T

c. If the case cannot be resolved in the prehearing conference, or if the applicant or operator does not request a prehearing conference, the case shall be subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (7-1-99)T

151. INSPECTIONS.

01. Inspection Of Homes. (7-1-99)T

a. The certifying agency shall cause to be made such inspections and investigations, based on previous survey experience, as it may deem necessary to determine compliance with this chapter and applicable rules and standards. (7-1-99)T

b. All inspections and investigations for such purposes, except for the initial certification study, shall be made unannounced and without prior notice. (7-1-99)T

c. The Department may utilize the services of any legally qualified person or organization, either public or private, to examine and inspect any home requesting certification. (7-1-99)T

d. A surveyor or inspector shall have full access and authority to examine quality of care and services delivery, resident records, records including any records or documents pertaining to any financial transactions between residents and the home, resident accounts, physical premises, including the condition of the home, grounds and equipment, food service, water supply, sanitation, maintenance, housekeeping practices, and any other areas necessary to determine compliance with these rules and standards. (7-1-99)T

e. A surveyor shall have the authority to interview the family home provider and family members, residents and residents' families. Interviews with residents shall be confidential and conducted privately unless otherwise specified by the resident. (7-1-99)T

f. The surveyor shall have full authority to inspect the entire home, accompanied by the provider, including personal living quarters of family members living in the home, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on the operation of the certified family home. (7-1-99)T

g. Following any investigation or inspection, the certifying agency shall provide a written report to the provider of the home within thirty (30) days of the investigation or inspection. The report shall include the findings of the investigation or inspection. (7-1-99)T

h. If deficiencies are identified during the investigation or inspection, the home shall be sent a statement of deficiencies which requires a plan of correction. (7-1-99)T

i. An acceptable plan of correction must include how the deficiency was corrected or how it shall be corrected, what steps have been taken to assure that the deficiency does not reoccur, and acceptable time frames for correction of the deficiency. (7-1-99)T

j. Depending on the severity of the deficiency, the home shall be given fourteen (14) calendar days to develop a written plan of correction and to return the plan of correction to the certifying agency. (7-1-99)T

k. Follow-up surveys may be conducted to ascertain if corrections to deficiencies are being made according to time frames established in the plan of correction. (7-1-99)T

02. Complaint Procedures. Any person who believes that any rule has been violated by a home may file a complaint with the certifying agency. (7-1-99)T

a. The certifying agency shall investigate, or cause to be investigated, any complaint alleging a violation of these rules. Any complaint involving the abuse, neglect, or exploitation of an adult shall be referred to adult protective services in accordance with the Adult Abuse, Neglect, and Exploitation Act. (7-1-99)T

b. No complainant's name or other information that can identify a complainant shall be publicly disclosed unless: (7-1-99)T

i. The complainant consents in writing to the disclosure; (7-1-99)T

ii. The investigation results in a judicial proceeding and disclosure is ordered by the court; or (7-1-99)T

iii. The disclosure is essential to the investigation. The complainant shall be given the opportunity to withdraw the complaint before disclosure. (7-1-99)T

c. The nature of the complaint shall determine the method used to investigate the complaint. On-site investigations at the home shall be unannounced. (7-1-99)T

d. The certified family home shall be offered an exit conference where the findings of the investigation shall be discussed. (7-1-99)T

e. If violation of these rules are identified, depending on the severity, the home shall be sent a statement of deficiencies and shall be required to prepare a plan of correction and return it to the certifying agency within a time frame designated by the certifying agency. (7-1-99)T

f. The certifying agency shall inform the complainant or, if requested by the complainant, the complainant's representative, of the results of the investigation, any action taken by the home to resolve the problem, and any further action taken by the Department. (7-1-99)T

03. Public Disclosure. Information received by the Department through filed reports, inspection, or as otherwise authorized under the law, shall not be disclosed publicly in such a manner as to identify individual residents except in a proceeding involving a question of certification. (7-1-99)T

a. A current list of deficiencies including plans of correction shall be available to the public upon request in the individual homes or by written request to the certifying agency. (7-1-99)T

04. Transfer Of Residents. The Department may transfer residents from a certified family home to an alternative placement on the following grounds: (7-1-99)T

a. As a result of a violation of this chapter or applicable rules, or standards, the home is unable or unwilling to provide an adequate level of meals, lodging, care, or supervision to persons residing in the home at the time of the violation; (7-1-99)T

b. A violation of a resident's rights provided in Section 39-3316, Idaho Code; (7-1-99)T

c. The home is operating without a certificate; or (7-1-99)T

d. A violation of this chapter or applicable rules or standards results in conditions that present an imminent danger. (7-1-99)T

152. -- 199. (RESERVED).

200. RESIDENTS' RIGHTS.

01. Residents' Rights Policy. Each certified family home shall develop and implement a written residents' rights policy which shall protect and promote the rights of each resident including, but not limited to, the following: (7-1-99)T

a. Each home must maintain and keep current a record of the following information on each resident: (7-1-99)T

i. A copy of the resident's current Negotiated Service Agreement or physician's order; (7-1-99)T

ii. Written acknowledgment that the resident has received copies of the rights; (7-1-99)T

iii. A record of all personal property and funds which the resident has entrusted to the home including copies of receipts for the property; (7-1-99)T

iv. Information about any specific health problems of the resident which may be useful in a medical emergency; (7-1-99)T

v. The name, address, and telephone number of an individual identified by the resident who should be

- contacted in the event of an emergency or death of the resident; (7-1-99)T
- vi. Any other health-related, emergency, or pertinent information which the resident requests the home to keep on record; and (7-1-99)T
 - vii. The current admission agreement between the resident and the home. (7-1-99)T
- b. Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits and meetings of family and resident groups; (7-1-99)T
- c. Each resident shall have the right to humane care and a humane environment, including the following: (7-1-99)T
- i. The right to a diet which is consistent with any religious or health-related restrictions; (7-1-99)T
 - ii. The right to refuse a restricted diet; and (7-1-99)T
 - iii. The right to a safe and sanitary living environment. (7-1-99)T
 - d. Each resident shall have the right to be treated with dignity and respect, including: (7-1-99)T
 - i. The right to be treated in a courteous manner by the provider; (7-1-99)T
 - ii. The right to receive a response from the home to any request of the resident within a reasonable time; (7-1-99)T
 - iii. Freedom from discrimination; and (7-1-99)T
 - iv. Freedom from intimidation, manipulation, coercion, and exploitation. (7-1-99)T
 - e. Each resident shall have the right to: (7-1-99)T
 - i. Wear his own clothing; (7-1-99)T
 - ii. Determine his own dress and hair style; (7-1-99)T
 - iii. Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity; and (7-1-99)T
 - iv. Be provided a separate storage area in his own living area and at least one (1) locked cabinet or drawer, if the resident requests and is capable of managing lock and key, for keeping personal property. (7-1-99)T
 - f. Residents whose board and care is paid for by public assistance shall retain, for their personal use, the difference between their total income and the applicable board and care allowance established by Department rules: (7-1-99)T
 - i. Residents shall have the right to manage their personal funds; (7-1-99)T
 - ii. A home shall not require a resident to deposit his personal funds with the home; and (7-1-99)T
 - iii. Once the home accepts the written authorization of the resident, the home must hold, safeguard, and account for such personal funds under a system established and maintained by the home in accordance with Subsections 205.01 through 205.02; (7-1-99)T
 - g. Upon a home's acceptance of written authorization of a resident, the home must manage and account for the personal funds of the resident deposited with them in accordance with Subsections 205.01 and 205.02; (7-1-99)T

- h. Each home must permit: (7-1-99)T
- i. Immediate access to any resident by any representative of the Department, by the state Ombudsman for the elderly or his designees, or by the resident's individual physician; (7-1-99)T
- ii. Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives; (7-1-99)T
- iii. Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident; and (7-1-99)T
- iv. Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time. (7-1-99)T
- i. Each resident shall have the right to refuse to perform services for the home; (7-1-99)T
- j. Each resident shall have access to his personal records and shall have the right to confidentiality of personal and clinical records; (7-1-99)T
- k. Each resident shall have the right to be free from physical, mental, or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience: (7-1-99)T
- i. Any physician, nurse, employee of a public or private health facility, or a state certified family home serving vulnerable adults, medical examiner, dentist, ombudsman for the elderly, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited shall immediately report such information to the Idaho Commission on Aging or its Area Agencies on Aging (Section 39-5303, Idaho Code). (7-1-99)T
- ii. It is the home's responsibility to report within four (4) hours to the appropriate law enforcement agency when there is reasonable cause to believe that abuse, neglect, misappropriation of resident's property, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult resident (refer to Idaho Code, Sections 39-5303 and 39-5310). (7-1-99)T
- l. Each resident shall have the right to practice the religion of his choice or to abstain from religious practice. Residents shall also be free from the imposition of the religious practices of others; (7-1-99)T
- m. Each resident shall have the right to control his health-related services, including: (7-1-99)T
- i. The right to retain the services of his own personal physician and dentist; (7-1-99)T
- ii. The right to select the pharmacy or pharmacist of his choice; (7-1-99)T
- iii. The right to confidentiality and privacy concerning his medical or dental condition and treatment; (7-1-99)T
- iv. The right to participate in the formulation of his Negotiated Service Agreement. (7-1-99)T
- n. Each resident shall have the right to voice/file a grievance with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievance and the right to prompt efforts by the home to resolve grievances the resident may have, including those with respect to the behavior of other residents; (7-1-99)T
- o. Each resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the home; (7-1-99)T

p. Each resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the home conducted by the Department with respect to the home and any plan of correction in effect with respect to the home; (7-1-99)T

q. Is transferred or discharged only for medical reasons, or for his welfare or that of other residents, or for nonpayment for his stay and in nonemergency conditions is given at least fifteen (15) calendar days advance written notice prior to the date of discharge or transfer or up to thirty (30) days as agreed to in the admission agreement; (7-1-99)T

r. The resident has a right to review a list of other certified family homes that may be available to meet his needs in case of transfer; (7-1-99)T

s. Residents shall have a right not to be required to receive routine care of a personal nature from a member of the opposite sex; (7-1-99)T

t. Residents shall have the right to send and receive mail unopened; (7-1-99)T

u. If the resident is married, he is assured privacy for visits by his spouse. If both are residents in the home, they are permitted to share a room unless medically contraindicated (as documented by the attending physician); (7-1-99)T

v. Advanced Directives. Elderly residents shall have the right to be informed, in writing, regarding the formulation of an advanced directive to include applicable State law. (7-1-99)T

w. Each resident shall have any other right established by law. (7-1-99)T

02. Notice Of Rights. Each certified family home shall: (7-1-99)T

a. Inform each resident, verbally and in writing, at the time of admission to the home, of his legal rights during the stay at the home; (7-1-99)T

b. The written description of legal rights in Section 200, shall include a description of the protection of personal funds and a statement that a resident may file a complaint with the certifying agency respecting resident abuse and neglect and misappropriation of resident property in the home. (7-1-99)T

03. Access By Advocates And Representatives. A certified family home shall permit advocates and representatives of community and legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the home at reasonable times in order to: (7-1-99)T

a. Visit, talk with and make personal, social service programs and legal services available to all residents; (7-1-99)T

b. Inform residents of their rights and entitlements, their corresponding obligations under state, federal, and local laws by distribution of educational materials or discussion in groups and with individuals; (7-1-99)T

c. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in all other matters in which residents are aggrieved. This assistance may be provided individually, or in a group basis, and may include organizational activity, counseling, and litigation; (7-1-99)T

d. Engage in all other methods of assisting, advising and representing residents so as to extend to them the full enjoyment of their rights; (7-1-99)T

e. Communicate privately and without restrictions with any resident who consents to the communication; (7-1-99)T

- f. Observe all common areas of the home. (7-1-99)T

201. UNIFORM ASSESSMENT CRITERIA.

01. Home's Responsibility For Private-Pay Residents. The home shall develop, identify, assess, or direct a uniform needs assessment of private-pay residents age eighteen (18) or older who seek supported living services. The Department's uniform assessment instrument may be used as the home's identified uniform needs assessment. (7-1-99)T

02. Information To Be Included In A Uniform Needs Assessment. The uniform needs assessment instrument used by the home for private-pay residents shall include, but not be limited to: (7-1-99)T

- a. Identification/background information; (7-1-99)T
- b. Medical diagnosis; (7-1-99)T
- c. Medical and health problems; (7-1-99)T
- d. Prescription and over-the-counter medications; (7-1-99)T
- e. Behavior patterns; (7-1-99)T
- f. Cognitive function; (7-1-99)T
- g. Functional status; and (7-1-99)T
- h. Assessed level of care. (7-1-99)T

03. Qualifications Of Persons Making Uniform Needs Assessments For Private-Pay Residents. The uniform needs assessment shall be conducted by persons who are trained by the home in administering the home's identified uniform needs assessment instrument. (7-1-99)T

04. Time Frames For Completing The Uniform Needs Assessment Instrument For Private-Pay Residents. The assessment will be completed no later than fourteen (14) calendar days after admission. The assessment shall be reviewed when there is a change in need, or every twelve (12) months, whichever comes first. (7-1-99)T

05. Use Of Uniform Needs Assessment For Determining The Ability Of Home To Meet Private-Pay Resident Needs. The results of the assessment may be used to evaluate the ability of a provider and home to meet the identified residents' needs. The results of the assessment may also be used to determine the need for special training or licenses or certificates that may be required in caring for certain residents. (7-1-99)T

06. Uniform Assessments For State-Funded Clients. State-funded clients shall be assessed by the Department in accordance with IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients". (7-1-99)T

202. NEGOTIATED SERVICE AGREEMENT.

01. Use Of Negotiated Service Agreement. Each resident shall be provided a negotiated service agreement to provide for coordination of services and for guidance of the personnel and management of the home where the person resides. A personal care services plan of care and/or an Individual Support Plan which includes the core elements of the Negotiated Service Agreement is considered equivalent to the Negotiated Service Agreement. Upon completion, the agreement shall clearly identify the resident and describe the services to be provided to the resident and how such services are to be delivered. (7-1-99)T

02. Core Elements Of The Negotiated Service Agreement, Plan Of Care, Or Individual Support

- Plan.** A resident's service plan shall be based on the following, but not limited to: (7-1-99)T
- a. Assessment; (7-1-99)T
 - b. Service needs for activities of daily living; (7-1-99)T
 - c. Need for limited nursing services; (7-1-99)T
 - d. Need for medication assistance; (7-1-99)T
 - e. Frequency of needed services; (7-1-99)T
 - f. Level of assistance; (7-1-99)T
 - g. Habilitation/Training needs, to specify the program being used; (7-1-99)T
 - h. Behavioral management needs, to include a specific plan which identifies situations that trigger inappropriate behavior; (7-1-99)T
 - i. Physician's signed and dated orders; (7-1-99)T
 - j. Admission records; (7-1-99)T
 - k. Community support systems; (7-1-99)T
 - l. Resident's desires; (7-1-99)T
 - m. Transfer/discharge; and (7-1-99)T
 - n. Other identified needs. (7-1-99)T

03. Signature And Approval Of Agreement. The provider and resident/resident's legal guardian/conservator, shall sign the service plan upon its completion, not to exceed fourteen (14) calendar days after the resident's admission. For personal care services and specialized family homes serving state clients, the services must be authorized by the Department prior to admission. (7-1-99)T

04. Signing Date That The Plan Was Approved. The provider and resident/resident's legal guardian/conservator shall date the service plan upon its completion, not to exceed fourteen (14) calendar days after the resident's admission. (7-1-99)T

05. Review Date. The service plan shall document the next scheduled date of review. (7-1-99)T

06. Development Of The Service Agreement. The home provider shall consult the resident and those other relevant persons identified by the resident in the development of their service agreement. As required by applicable program requirements, licensed and/or professional staff will be involved in the development of the plan. (7-1-99)T

07. Provision Of Copy Of Agreement. Signed copies of the agreement shall be given to the resident, to the resident's legal guardian/conservator, or for state-funded clients, to the Department for review, and authorization and approval, and a copy placed in the resident's records file, no later than fourteen (14) calendar days from admission. (7-1-99)T

08. Resident Choice. A resident shall be given the choice and control of how and what services the home will provide, or external vendors will provide to the extent the resident can make choices. (7-1-99)T

09. Record. A record shall be made of any changes or inability to provide services outlined in the negotiated service agreement. (7-1-99)T

10. External Services. The agreement shall include a statement regarding when there is no need for access to external services. (7-1-99)T

11. Periodic Review. The negotiated service agreement may be reviewed as necessary but must be reviewed at least every six (6) months. (7-1-99)T

203. ADMISSIONS.

01. Admission Agreements. Prior to admission to a certified family home, the home and the resident shall enter into an admission agreement. The agreement shall be in writing and shall be signed by both parties and shall, in itself or by reference to the resident's plan of care, include as a minimum the following: (7-1-99)T

a. Services that the home shall provide including, but not limited to, daily activities, recreational activities, maintenance of self-help skills, assistance with activities of daily living, arrangements for medical and dental services and provisions for trips to social functions, special diets, and arrangements for payments; (7-1-99)T

b. Whether or not the resident shall assume responsibility for his own medication including reporting missed medication or medication taken on a PRN basis; (7-1-99)T

c. Whether or not the home shall accept responsibility for the residents' personal funds; (7-1-99)T

d. How a partial month's refund shall be handled; (7-1-99)T

e. Responsibility for valuables belonging to the resident and provision for the return of residents' valuables should the resident leave the home; (7-1-99)T

f. The type of resident and the level of resident that shall be admitted to the home; (7-1-99)T

g. Fifteen (15) calendar days' written notice or up to thirty (30) calendar days as agreed to in the admission agreement prior to transfer or discharge on the part of either party; (7-1-99)T

h. Conditions under which emergency transfers shall be made; (7-1-99)T

i. Signed permission to transfer pertinent information from the resident's record to a hospital, nursing home, residential and assisted living facility, or other certified family home; (7-1-99)T

j. Resident responsibilities as appropriate; and (7-1-99)T

k. Other information as may be appropriate. (7-1-99)T

02. Conditions Of Termination Of The Admission Agreement. The admission agreement shall not be terminated except under the following conditions: (7-1-99)T

a. By written notification by either party giving the other party fifteen (15) calendar days' written notice; (7-1-99)T

b. The resident's mental or physical condition deteriorates to a level requiring evaluation and/or service that cannot be provided in a certified family home; (7-1-99)T

c. Nonpayment of the resident's bill; (7-1-99)T

d. In emergency conditions a resident may be transferred out of the home without fifteen (15) calendar days' written notice to protect the resident or other residents in the home from harm; and (7-1-99)T

e. Other written conditions as may be mutually established between the resident and the provider of the home at the time of admission. (7-1-99)T

204. RESIDENT RECORDS.

01. Admission Records. Records required for admission to a home shall be maintained and updated and shall be confidential. Their availability without the consent of the resident, subject to IDAPA16.05.01, "Rules Governing the Protection and Disclosure of Department Records," shall be limited to the home staff, professional consultants, the resident's physician and representatives of the certifying agency. All entries shall be kept current, recorded legibly in ink, dated, signed, and shall include, but not be limited to, the following: (7-1-99)T

- a. Name and Social Security number; and (7-1-99)T
- b. Permanent address if other than the home; and (7-1-99)T
- c. Marital status and sex; and (7-1-99)T
- d. Birth place and date of birth; and (7-1-99)T
- e. Name and addresses of responsible agent or agency including telephone numbers; and (7-1-99)T
- f. Personal physician and dentist; and (7-1-99)T
- g. Admission date and name of person who completed admission form; and (7-1-99)T
- h. Results of a history and physical examination performed by a licensed physician or nurse practitioner within six (6) months prior to admission; and (7-1-99)T
- i. For private-pay residents, the history and physical should include a description of the functional abilities of the resident including his specific strengths and limitations and the specific needs for personal assistance and supervision indicating that the resident is appropriate for placement in a home; and (7-1-99)T
- j. A list of medications, diet, and treatments prescribed for the resident which is signed and dated by the physician giving the order; and (7-1-99)T
- k. Religious affiliation if resident chooses to so state; and (7-1-99)T
- l. Interested relatives and friends other than those outlined in Subsection 204.01.e. to include names, addresses, and telephone numbers of family members, legal guardian/conservator, or significant others, or all; and (7-1-99)T
- m. For clients of the Department a psychosocial history, completed within six (6) months prior to admission, by a licensed social worker, psychologist, psychiatrist, or licensed physician; and (7-1-99)T
- n. Social information, obtained by the home through interview with the resident, family, case manager, targeted service coordinator, legal guardian/conservator, or all. The information shall include the resident's social history, hobbies, and interests; and (7-1-99)T
- o. Written admission agreement which is signed and dated by the provider and the resident/resident's legal guardian/conservator; and (7-1-99)T
- p. A signed copy of the resident's bill of rights as detailed in Section 200.02, or documentation that the resident or resident's legal guardian/conservator has read and understands his rights as a resident of the home; and (7-1-99)T
- q. A copy of the resident's admission Uniform Assessment Instrument for the certified family home; and (7-1-99)T
- r. A copy of the signed and dated admission negotiated service agreement, plan of care, or individual

support plan that contains all elements of a negotiated service agreement between the resident/resident's legal guardian/conservator and the home. (7-1-99)T

02. Ongoing Resident Records. At the time of admission, resident can inventory any item they choose. That inventory can be updated at any time during their stay. Records shall be kept current, to include but not be limited to: (7-1-99)T

- a. Admission information as required in Section 204.01 of this Chapter; and (7-1-99)T
- b. A current list of medications, diet, and treatments prescribed for the resident which is signed and dated by the physician giving the order. Current orders may be a copy of the signed doctor's order from the pharmacy; and (7-1-99)T
- c. Any incident/accident occurring while the resident is in the home; and (7-1-99)T
- d. Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. All PRN medication shall be documented with the reason for taking the medication; and (7-1-99)T
- e. Notes from the contract nurse, home health, physical therapy, or other service providers, or all documenting the services provided at each visit; and (7-1-99)T
- f. Documentation of significant changes in the residents' physical, mental status, or both and the home's response; and (7-1-99)T
- g. If appropriate, the resident's financial trust fund accounting records; and (7-1-99)T
- h. The resident's Uniform Assessment Instruments, to include the admission assessment and all assessments for the past year, for certified family home care; and (7-1-99)T
- i. Signed and dated negotiated service agreement or individual support plan, to include the admission negotiated service agreement and all service agreements for the past year between the resident/resident's legal guardian/conservator and the home; and (7-1-99)T
- j. Contact name, address, phone number of individuals providing paid supports; and (7-1-99)T
- k. Signed copies of all care plans that are prepared by all outside service agencies. (7-1-99)T

03. Maintenance Of Resident Records. Resident records shall be maintained at the home for not less than one (1) year after the resident has left the home. (7-1-99)T

205. RESIDENT CHARGES AND FINANCIAL RECORDS.

01. Resident Funds Policies. If a resident's funds are turned over to the home or provider for any purpose other than payment for services allowed under these rules, or if the home provider, his relative, or personnel act as resident payee the home will be deemed to be handling residents' funds. Each home shall develop and implement a policy and procedure outlining how residents' funds shall be handled. This policy and procedure shall include, but not be limited to, the following: (7-1-99)T

- a. The home policy and procedure shall state whether the home shall or shall not handle residents' funds; (7-1-99)T
- b. This policy or procedure shall be clearly stated in the admission policy and in the admission agreement; and (7-1-99)T
- c. If the home is deemed to manage funds and the resident leaves the home under any circumstances,

the home can only retain room and board funds prorated to the last day of the fifteen (15) calendar day notice period, or thirty (30) calendar day notice period per agreement, or upon moving from the home, whichever is later. All remaining funds must follow the resident, and resident funds must be used for resident expenses until a new payee is appointed. (7-1-99)T

02. Handling Of Resident Funds. If the home agrees to handle residents' funds, the following shall apply: (7-1-99)T

a. A separate trust account must be established. There can be no commingling of trust funds with home funds. Borrowing between resident accounts is prohibited; (7-1-99)T

b. Each resident shall be notified that a trust fund is available for his use if he needs this service; (7-1-99)T

c. If it is determined that a resident needs the use of a trust fund service, the home shall be required to deposit the residents' funds into the trust fund; (7-1-99)T

d. Bill each resident for his certified family home care charges on a monthly basis from the trust account; (7-1-99)T

e. Document on a monthly or on a weekly basis any financial transactions in excess of five dollars (\$5) between the resident and the home or any of the home's personnel. A separate transaction record shall be maintained for each resident; (7-1-99)T

f. In any case in which the home cannot produce proper accounting records of residents' funds or property, the home shall be presumed to owe the funds not accounted for to the resident and restitution of the funds to the resident shall be a condition for continued operation of the home; (7-1-99)T

g. The home shall not require the resident to purchase goods or services from the home for other than those designated in the admission policies, or the admission agreement, or both. See Section 203; (7-1-99)T

h. The home shall afford the resident or the resident's legal guardian/conservator or person of the resident's choosing access to the resident's financial record; (7-1-99)T

i. The home shall afford the resident reasonable access to his funds; (7-1-99)T

j. Upon the death of a private-pay resident, with a trust fund, the home must convey the resident's personal funds and a final accounting of such funds to the individual administering the resident's estate within ninety (90) days; and (7-1-99)T

k. Upon the death of a client of the Department, with a trust fund, the home must convey the resident's personal funds and a final accounting of such funds to the Department within thirty (30) days. (7-1-99)T

206. ENVIRONMENTAL SANITATION STANDARDS.

The home is responsible for the prevention of disease and for the maintenance of sanitary conditions. (7-1-99)T

01. Water Supply. The water supply for the home shall be adequate, of a safe, sanitary quality and: (7-1-99)T

a. A Department approved private, public or municipal water supply shall be used; (7-1-99)T

b. If water is from a private supply, water samples shall be submitted to the Department through a private accredited laboratory or the District Public Health Laboratory for bacteriological examination at least annually or more frequently if deemed necessary by the Department. Copies of the laboratory reports shall be kept on file at the home; and (7-1-99)T

c. There shall be a sufficient amount of water under adequate pressure to meet the sanitary

requirements of the home at all times. (7-1-99)T

02. Sewage Disposal. All sewage and liquid wastes shall be discharged, collected, treated, and disposed of in a manner approved by the Department. If the facility is not utilizing an approved municipal sewage treatment system, a statement must be obtained from a local environmental health specialist indicating that the sewage disposal system meets the requirements of the Department. The reports shall be kept on file at the home and shall be kept current. (7-1-99)T

03. Garbage And Refuse Disposal. Garbage and refuse disposal shall be provided by the home. (7-1-99)T

a. Garbage containers outside the home used for storage of garbage and refuse shall be constructed of durable, nonabsorbent materials and shall not leak or absorb liquids. Containers shall be provided with tight-fitting lids. (7-1-99)T

b. Garbage containers shall be maintained in good repair. Sufficient containers shall be afforded to hold all garbage and refuse which accumulates between periods of removal from the premises. Storage areas shall be kept clean and sanitary. (7-1-99)T

04. Insect And Rodent Control. The home shall be maintained free from infestations of insects, rodents and other pests. Chemicals (pesticides) used in the control program shall be selected, stored, and used in the following manner: (7-1-99)T

a. The chemical shall be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer; (7-1-99)T

b. The home shall take the necessary precautions to protect residents from obtaining toxic chemicals or cleaning supplies that are being stored either in individual resident rooms or by the home; (7-1-99)T

05. Yards. The yards surrounding the home shall be maintained to at least the standards of the surrounding neighborhood. (7-1-99)T

06. Linen-Laundry Facilities And Services. Adequate facilities shall be provided for the proper and sanitary washing of linen and other washable goods laundered at the home. (7-1-99)T

07. Housekeeping And Maintenance. Sufficient housekeeping and maintenance shall be provided to maintain the interior and exterior of the home in a clean, safe, and orderly manner. (7-1-99)T

a. Prior to occupancy of any sleeping room by a new resident, the room shall be thoroughly cleaned including the bed, bedding, and furnishings; and (7-1-99)T

b. Deodorizers shall not be used to cover odors caused by poor housekeeping and unsanitary conditions. (7-1-99)T

207. -- 427. (RESERVED).

428. MEDICATION STANDARDS AND REQUIREMENTS.

01. Medication Policy. Each home shall develop and implement a written medication policy and procedure that outlines in detail the procedures to be followed regarding the handling of medications and to include the delegation requirements of the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Board of Nursing," Subsection 010.05, Section 400, Subsections 400.02, 400.04, and 400.05 where applicable. The medication policy shall include, but not be limited to, the following: (7-1-99)T

a. If the resident is responsible for his own medication, a written approval stating that the resident is capable of self-administration of medications, must be obtained from the resident's primary physician; (7-1-99)T

b. The home shall take the necessary precautions to protect residents from obtaining medications that are being stored either in individual resident rooms or by the home; and (7-1-99)T

c. The home shall be responsible for providing any necessary assistance to the resident in taking his medication. (7-1-99)T

02. Medication Distribution System. Medi-sets, blister pack, or other system as approved by the department must be filled by a pharmacist and appropriately labeled in accordance with pharmacy standards. A licensed nurse may fill Medi-sets, which must be appropriately labeled with medication name, dosage, amount, time to be taken, and any special instructions. (7-1-99)T

03. Assistance With Medication. PRN medications and temporary routine medications of fourteen (14) calendar days or less may be maintained in an appropriately labeled multidose container. Each medication must be given to the resident directly from the medi-set or blister pack or medication container. The resident must be observed taking the medication. (7-1-99)T

04. Unused Medication. Unused or discontinued medications shall not accumulate at the home for longer than thirty (30) calendar days, unless there is reason to believe that the medication will be reordered by the attending physician within a reasonable length of time. The unused medication shall be disposed of in a manner that assures that it cannot be retrieved. A written record of all disposal of drugs shall be maintained in the home and shall include: (7-1-99)T

- a. A description of the drug, including the amount; (7-1-99)T
- b. The resident for whom the medication was prescribed; (7-1-99)T
- c. The reason for disposal; (7-1-99)T
- d. The method of disposal; and (7-1-99)T
- e. Signatures of responsible home personnel and a witness, resident's family, or home's nurse. (7-1-99)T

429. -- 599. (RESERVED).

600. FIRE AND LIFE SAFETY STANDARDS.

Certified family homes must meet all the requirements of local and state codes concerning fire and life safety that are applicable to certified family homes. (7-1-99)T

01. General Requirements. General requirements for the fire and life safety standards for a certified family home are: (7-1-99)T

a. The home shall be structurally sound and shall be equipped and maintained to assure the safety of residents, employees, and the public; (7-1-99)T

b. On the premises of all homes where natural or man-made hazards are present, suitable fences, guards, and railing must be provided to protect the residents, in accordance with the residents' level of supervision needs as documented in the Negotiated Service Agreement; and (7-1-99)T

c. The premises of the certified family home shall be kept free from the accumulation of weeds, trash, and rubbish. (7-1-99)T

02. Fire/Life Safety Requirements. (7-1-99)T

a. Smoke detectors shall be installed throughout the home. The locations and number of smoke detectors shall be determined during the initial certification study; (7-1-99)T

- b. Any locks installed on exit doors shall be single action, easily openable from the inside without the use of keys or any special knowledge; (7-1-99)T
- c. Portable comfort heating devices of any kind shall be prohibited; (7-1-99)T
- d. Homes that employ the use of fuel-fired stoves shall provide adequate railings or other approved protection designed to prevent residents from coming into contact with the stove surfaces; (7-1-99)T
- e. Each resident's sleeping room shall be provided with an openable window which shall not be less than ten percent (10%) of the total floor space in the room. The window sill height shall not be greater than forty-four (44) inches above the finished floor. Window openings shall not be less than twenty-two (22) inches in width and height. Waivers will be considered on a case-by-base basis (refer to Section 004, Waivers); (7-1-99)T
- f. Quantities of flammable and/or highly combustible materials deemed hazardous by the certifying agency shall not be stored in the home; (7-1-99)T
- g. Boilers, hot water heaters, and unfired pressure vessels shall be equipped with automatic pressure relief valves; (7-1-99)T
- h. Portable fire extinguishers shall be installed throughout the home according to the configuration of the home. All extinguishers installed after July 1, 1999 shall be multipurpose ABC type and subject to the approval of the certifying agency; (7-1-99)T
- i. Electrical installations and equipment shall comply with the applicable local and/or state electrical codes; (7-1-99)T
- j. Solid fuel heating devices installed shall be approved by the local fire/building jurisdiction. In addition, openings in all solid fuel heating devices shall be provided with a door(s) constructed of heat tempered glass or other approved material; (7-1-99)T
- k. Furnishings, decorations, or other objects shall not obstruct exits; (7-1-99)T
- l. No door in the path of travel to an exit and any exit door shall be less than twenty-eight (28) inches wide; and (7-1-99)T
- m. Every bathroom shall be designed to permit the opening of the locked door from the outside in case of an emergency. (7-1-99)T
- 03. Smoking.** Because smoking has been acknowledged to be a fire hazard, a continuous effort shall be made to reduce its presence in the home. The certified family home shall observe at least the following: (7-1-99)T
- a. Smoking is prohibited in any area where flammable liquids, gases, or oxidizers are in use and/or stored; (7-1-99)T
- b. Residents shall not be permitted to smoke in bed; (7-1-99)T
- c. Unsupervised smoking is prohibited by residents classified as not mentally or physically responsible. This includes residents so affected by medication; and (7-1-99)T
- d. Nothing in Subsection 600.03 requires that smoking be permitted in homes whose admission policies prohibit smoking. (7-1-99)T

04. Disaster And Fire Preparedness. Each certified family home shall develop and implement an evacuation plan which shall be reviewed with residents upon admission and every six (6) months thereafter. In addition documentation shall be available at each home indicating that all residents have been advised of actions required under emergency conditions. This information shall be maintained in each resident's individual file. (7-1-99)T

05. Report Of Fire. A separate report on each fire incident occurring within the home shall be submitted to the Department within thirty (30) calendar days of the occurrence. The reporting form, "Certified Family Home Incident Report," shall be issued by the Department to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any. (7-1-99)T

06. Maintenance Of Equipment. The home shall assure that all equipment is properly maintained to assure the safety of the residents. (7-1-99)T

a. The smoke detectors shall be tested at least monthly and a written record of the test results maintained on file; (7-1-99)T

b. Portable fire extinguishers shall be serviced annually by an outside servicing agency. In addition, portable fire extinguishers shall be examined, at least quarterly, by a knowledgeable family member to determine that; (7-1-99)T

i. The extinguisher is in its designated location; (7-1-99)T

ii. Seals or tamper indicators are not broken; (7-1-99)T

iii. The extinguisher has not been physically damaged; (7-1-99)T

iv. The extinguisher does not have any obvious defects; and (7-1-99)T

v. Inspecting tags on each extinguisher shall show at least the initials of the person making the quarterly examinations and the date of the examinations. (7-1-99)T

c. Fuel-fired heating systems shall be inspected, serviced, and approved at least annually by person(s) professionally engaged in the business of servicing these systems. The inspection records shall be maintained on file in the home. (7-1-99)T

601. -- 699. (RESERVED).

700. HOME CONSTRUCTION AND PHYSICAL HOME STANDARDS.

01. General Requirements. (7-1-99)T

a. All buildings utilized as certified family homes shall be of such character as to be suitable for such use. Certified family homes shall not be housed in buildings intended for other than residential living purposes; (7-1-99)T

b. Remodeling or additions to homes shall be consistent with residential use of the property and shall not detract from the residential use of the property. Remodeling which identifies the home as a certified family home is prohibited such as remodeling garages when this is not the general practice in the neighborhood or constructing large buildings which overwhelm the lot on which the home is located; and (7-1-99)T

c. All homes shall be subject to the approval of the Department. (7-1-99)T

02. Walls And Floors. Walls and floors shall be of such character to permit frequent cleaning. Walls in residents' sleeping rooms shall extend from floor to ceiling and shall be of such character as to stop the passage of smoke and to provide the resident with privacy. (7-1-99)T

03. Telephone. There shall be a telephone in the home which is accessible to all residents. The telephone shall be situated in such a manner as to provide the resident adequate privacy while using the telephone for private calls. The telephone shall be made immediately available in case of an emergency. Emergency numbers shall be posted near the telephone. (7-1-99)T

- 04. Toilet Facilities And Bathrooms.** Each certified family home shall provide: (7-1-99)T
- a. At least one (1) flush toilet, one (1) tub or shower, and one (1) lavatory with a mirror; (7-1-99)T
 - b. Toilet facilities and bathrooms shall be separated from all rooms by solid walls or partitions; (7-1-99)T
 - c. All inside toilet facilities and/or bathrooms shall have forced ventilation to the outside; (7-1-99)T
 - d. Tubs, showers, and lavatories shall be connected to hot and cold running water; and (7-1-99)T
 - e. Toilet facilities and bathrooms for resident use shall be so arranged that it is not necessary for an individual to pass through another resident's room to reach the toilet or bath. (7-1-99)T

05. Accessibility For Persons With Mobility And Sensory Impairments. For residents with mobility or sensory impairments, the home shall provide a physical environment which meets the needs of the person for independent mobility and use of appliances, bathroom facilities, and living areas. New construction must meet the Americans with Disabilities Act Accessibility Guidelines (ADAAG) requirements. Existing homes shall comply, to the maximum extent feasible with Title III-4.4000 of the Americans with Disabilities Act, without creating an undue hardship or burden on the home, and shall provide as required, the necessary accommodations: (7-1-99)T

- a. Ramps for residents who require assistance with ambulation shall comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.8; and (7-1-99)T
- b. Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.13; and (7-1-99)T
- c. Grab bars in resident toilet facilities and bathrooms that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.26; and (7-1-99)T
- d. Toilet facilities that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.16 and 4.23; and (7-1-99)T
- e. Non-retractable faucet handles that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.19 (with the exception of self-closing valves under 4.19.5) and 4.27; and (7-1-99)T
- f. Suitable hand railing shall be provided on both sides of all stairs leading into and out of a building for residents who require the use of crutches, walkers, or braces. (7-1-99)T

06. Furnishings And Equipment. Room and board, assistance with activities of daily living, supervision, assistance with and monitoring of medications, linen, towels, wash cloths, a reasonable supply of soap, shampoo, toilet paper, sanitary napkins, first aid supplies, electric razors or other means of shaving, toothpaste, laundering of linens owned by the home, emergency transportation, housekeeping service, maintenance, utilities, and basic television in common areas shall be included in the basic room and board charges and must be available at no extra charge. In addition, the following shall apply: (7-1-99)T

- a. Resident living rooms shall be provided with reading lamps, tables, and comfortable chairs and/or sofas; (7-1-99)T
- b. Each resident shall be provided with his own bed which shall be at least thirty-six (36) inches wide, substantially constructed, and in good repair. Roll-away type beds, cots, folding beds, or double bunks shall not be utilized. Each bed shall be provided with springs which are in good repair, a clean and comfortable mattress which is standard for the bed, and a pillow; (7-1-99)T
- c. Each sleeping room shall be equipped with individual storage for personal items for each resident; (7-1-99)T

d. Adequate and satisfactory equipment and supplies shall be provided to serve the residents. The amount and kind shall vary according to the size of the home and type of resident; and (7-1-99)T

e. A two-way intercom shall be provided when the size or design of the building necessitates a need for such a system. (7-1-99)T

07. Storage Areas. Adequate storage shall be provided in addition to the required storage in resident sleeping rooms. (7-1-99)T

08. Lighting. Adequate lighting shall be provided in all resident sleeping rooms, dining/living/recreation rooms, and halls. (7-1-99)T

09. Ventilation. The home shall be ventilated, and precautions shall be taken to prevent offensive odors. (7-1-99)T

10. Heating. The temperature within the certified family home shall be maintained at seventy (70) degrees Fahrenheit or more during waking hours when residents are at home and sixty-five (65) degrees Fahrenheit or more during sleeping hours or as defined in the Negotiated Service Agreement. Wood stoves shall not be the primary source of heat and the thermostat for the primary source of heat shall be remotely located away from the wood stove. (7-1-99)T

11. Plumbing. All plumbing in the home shall comply with local and/or state codes. All plumbing fixtures shall be easily cleanable and maintained in good repair. (7-1-99)T

12. Resident Sleeping Rooms. (7-1-99)T

a. Resident sleeping rooms shall not be in attics, stairs, halls, or any rooms commonly used for other than bedroom purposes. Resident sleeping rooms may be in basements only if the following conditions are met: (7-1-99)T

i. The window must not open into a window well that cannot be exited, and the window must provide an adequate view of the outdoors. All other fire and life safety requirements for windows must be met; (7-1-99)T

ii. The basement must have floors, ceilings, and walls which are finished to the same degree as the rest of the home. The sleeping room must meet all other requirements of these rules; and (7-1-99)T

iii. The resident must be assessed through the Negotiated Service Agreement to be capable of evacuating from the basement without assistance in an emergency. (7-1-99)T

b. Resident sleeping rooms shall be provided with walls that run from floor to ceiling and with solid doors that will stop the passage of smoke and provide the resident with adequate privacy; (7-1-99)T

c. Residents shall not occupy the same bedroom as the certified family home provider or their minor age children; (7-1-99)T

d. Ceiling heights in sleeping rooms shall be at least seven feet six inches (7'6"); (7-1-99)T

e. If closet space is utilized by two (2) residents, it shall be provided with substantial dividers for separation of each resident's clothing. All closets shall be equipped with doors. Free-standing closets shall be deducted from the square footage in the sleeping room; (7-1-99)T

f. Homes shall provide sleeping rooms which allow for not less than one-hundred (100) square feet of floor space per resident in a single-bed sleeping room and not less than eighty (80) square feet of floor space per resident in a two (2) person sleeping room. (7-1-99)T

701. -- 709. (RESERVED).

710. REQUIREMENTS FOR EXISTING HOMES TO BE CONVERTED TO CERTIFIED FAMILY HOMES.

In addition to Subsections 700.01 through 700.12, homes to be converted to certified family homes shall comply with the following: (7-1-99)T

- 01. Site Requirements.** The home location shall be: (7-1-99)T
- a. In a lawfully constituted fire district; and (7-1-99)T
 - b. Served by an all-weather road kept open to motor vehicles at all times of the year; and (7-1-99)T
 - c. Accessible to physician or emergency medical services within thirty (30) minutes driving time; and (7-1-99)T
 - d. Accessible within thirty (30) minutes driving time to necessary social, medical, and rehabilitation services. (7-1-99)T

02. Use Of Modular (i.e., Factory Built) Buildings And Manufactured Homes. Modular Buildings as defined in Section 39-4105, Idaho Code, must conform to the requirements of the Uniform Building Code unless approved for use as a home prior to July 1, 1999, and may continue to be certified when evaluated on a case-by-case basis for fire and life safety issues for the current owner. Manufactured Homes as defined in Section 39-4105, Idaho Code, shall not be used unless approved for use as a home prior to July 1, 1999, and may continue to be certified when evaluated on a case-by-case basis for fire and life safety issues for the current owner.

03. Occupancy Approval. Any building proposed for conversion to a home shall be approved by the certifying agency prior to issuance of a certificate. Any items of noncompliance shall be corrected prior to issuance of the certificate. (7-1-99)T

711. -- 724. (RESERVED).

725. ENFORCEMENT PROCESS.

01. Remedies. If the Department finds that a home does not or did not meet a rule governing certified family homes, it may impose the following remedies, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal: (7-1-99)T

- a. Ban on all admissions (See Subsection 726); (7-1-99)T
- b. Ban on admissions of residents with certain diagnosis (See Section 727); (7-1-99)T
- c. Civil monetary penalties (Refer to IDAPA 16.03.22, "Rules for Licensed Residential and Assisted Living Facilities in Idaho," Section 927); (7-1-99)T
- d. Summarily suspend the certificate and transfer residents (See Section 728); (7-1-99)T
- e. Issue a provisional certificate (Refer to IDAPA 16.03.22, "Rules for Licensed Residential and Assisted Living Facilities in Idaho," Section 930); or (7-1-99)T
- f. Revoke the home's certificate (See Section 729). (7-1-99)T

02. Recommendation Of Remedy. In determining which remedy to recommend, the certifying agency shall consider the home's compliance history, change of ownership, the number of deficiencies, scope, and severity of the deficiencies. Subject to these considerations, the Department may impose any of the remedies described in Subsections 725.01.a. through 725.01.f. (7-1-99)T

03. Immediate Jeopardy. If the certifying agency finds that the home's deficiency or deficiencies immediately jeopardize the health or safety of its residents, the Department shall summarily suspend the home's

certificate. (7-1-99)T

04. No Immediate Jeopardy. If the certifying agency finds that the home's deficiency or deficiencies do not immediately jeopardize resident health or safety, the Department may impose one (1) or more of the remedies specified in Subsection 725.01.a. through 725.01.f. (7-1-99)T

05. Repeated Noncompliance. If the certifying agency makes a determination of repeated noncompliance with respect to a home, the certifying agency may impose any of the remedies listed in Subsections 725.01.a. through 725.01.f. The certifying agency shall monitor the home on-site on an as needed basis, until the home has demonstrated to the certifying agency's satisfaction that it is in compliance with all program requirements governing homes and that it will remain in compliance. (7-1-99)T

06. Failure To Comply. If a home has not complied with any program requirement within three (3) months of the date the home is found to have been out of compliance with such requirement, or as stated in the home's accepted plan of correction and the Department has verified, via on-site resurveys, that the home has made little or no progress in correcting deficiencies then the Department shall institute a revocation action against the home. (7-1-99)T

726. ENFORCEMENT REMEDY OF BAN ON ALL ADMISSIONS.

The certifying agency shall notify the home via certified mail banning all admissions to the home pending satisfactory correction of all deficiencies. Such bans to the home or to any part thereof shall remain in effect until the state certifying agency determines that the home has achieved full compliance with all program requirements, or until a substitute remedy is imposed. (7-1-99)T

727. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS OF RESIDENTS WITH SPECIFIC DIAGNOSIS.

The certifying agency shall notify the home via certified mail banning admission of all residents with a specific diagnosis. Such bans may be imposed for all prospective residents both state and private, and shall prevent the home from admitting the kinds of residents for whom it has shown an inability to provide adequate care. (7-1-99)T

728. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENTS.

01. Summarily Suspend The Home's Certificate And Transfer Residents. The certifying agency may summarily suspend a home's certificate and transfer residents when convinced by a preponderance of the evidence that residents' health and safety are in immediate jeopardy. See Subsection 150.05 and Section 184. (7-1-99)T

02. Emergency Powers Of The Director. In the event of an emergency endangering the life or safety of a resident, the Director may summarily suspend or revoke any home certificate. As soon thereafter as practicable, the Director shall provide an opportunity for a hearing. (7-1-99)T

729. ENFORCEMENT REMEDY OF REVOCATION OF CERTIFICATE.

01. Revocation Of The Home's Certificate. The Department may institute a revocation action when persuaded by a preponderance of the evidence that the home is not in substantial compliance with this chapter. (7-1-99)T

02. Causes For Revocation Of The Certificate. The certifying agency may revoke any certificate to include the following causes, but not be limited to: (7-1-99)T

a. The certificate holder has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; (7-1-99)T

b. The home is not in substantial compliance with these rules; (7-1-99)T

c. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (7-1-99)T

- d. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the home. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; (7-1-99)T
- e. The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a home; (7-1-99)T
- f. The provider has violated any of the conditions of a provisional certificate; (7-1-99)T
- g. The home has one (1) or more major deficiencies. A major deficiency is a deficiency that endangers the health, safety, or welfare of any resident; (7-1-99)T
- h. An accumulation of minor violations that, taken as a whole would constitute a major deficiency as noted in Subsection 010.50; (7-1-99)T
- i. Repeat violations of any requirement of these rules or of the Idaho Code; (7-1-99)T
- j. The home lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of residents residing at the home; and (7-1-99)T
- k. Substantial Compliance. The home is not in substantial compliance with the provisions for services or residents' rights outlined in Subsection 101.01.d. and Section 200 through Subsection 200.03. (7-1-99)T
- l. Certificate holder refuses to allow the certifying agency and/or Protection and Advocacy agencies full access to the home environment, home records, and/or the residents. (7-1-99)T

03. Additional Causes For Revocation Of Certificate. Additional causes for revocation of a certificate may include the following: (7-1-99)T

- a. Any condition exists in the home which endangers the health or safety of any resident; (7-1-99)T
- b. The provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; (7-1-99)T
- c. The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a certified family home; (7-1-99)T
- d. Any deficiency that endangers the health or safety or welfare of any resident; or (7-1-99)T
- e. The home lacks adequate supervision of residents; (7-1-99)T

730. ENFORCEMENT REMEDY OF INJUNCTION.

Notwithstanding any other remedy at law, the Director may seek an injunction in the name of the state against any person or governmental unit to enjoin the establishment, conduct, management, or operation of a certified family home in violation of the provisions of this chapter. See Sections 39-3358, 39-3558, 39-3380, and 39-3570, Idaho Code. (7-1-99)T

731. RIGHT TO SELL.

Nothing contained in Section 725 shall limit the right of any home owner to sell, lease, mortgage, or close any home in accordance with all applicable laws. (7-1-99)T

732. NOTICE OF ENFORCEMENT REMEDY.

The Department shall give notice of the imposition of any remedy described in this chapter after the home is afforded any allowable reviews or hearings as follows: (7-1-99)T

- 01. Notice To Home.** The Department shall give notice to the home in writing, transmitted in a manner

which shall reasonably ensure timely receipt by the home such as certified mail or personal carrier; and (7-1-99)T

02. Notice To Public. The Department shall give notice to the public by transmitting printed notices to the home. The home shall post all notices reasonably expected to be readable by the home's residents or their representatives, including, but not limited to, exits and common areas. The notices shall remain in place until all remedies are officially removed by the certifying agency; and (7-1-99)T

03. Notice To The Ombudsman. The Department shall give notice to the state Ombudsman for the elderly; and (7-1-99)T

04. Notice To The Residents' Attending Physicians. The Department shall give notice to the attending physician of each resident affected by a finding of substandard quality of care; and (7-1-99)T

05. Notice To The Professional Licensing Boards. The Department shall give notice to professional licensing boards, as appropriate; and (7-1-99)T

06. Failure To Effect Notice. Failure of the Department to effect notice as required in Sections 951 through 951.06 of the rules, IDAPA 16.03.22, "Rules For Licensed Residential and Assisted Living Facilities In Idaho," shall not be grounds for the home to contest any action taken under this chapter. (7-1-99)T

733. PROCEDURE FOR HEARINGS FOR ENFORCEMENT ACTIONS AGAINST A CERTIFICATE.

01. Home Notification. Immediately upon the decision to implement an enforcement action to include denial of certificate, the certifying agency shall notify the applicant or provider in writing by certified mail or by personal service of its decision to implement an enforcement action against the certificate and the reason for the enforcement action. (7-1-99)T

02. Administrative Review. The notification of denial or revocation shall also offer the applicant or the provider the opportunity to request an administrative review. Should the home wish to contest imposition of a remedy, other than a plan of correction and except as provided in IDAPA 16.03.22, "Rules for Licensed Residential and Assisted Living Facilities in Idaho," Subsections 927.05 and 928.04, a written request for administrative review must be received by the certifying agency within fourteen (14) calendar days of the home's receipt of notice of imposition of the remedy. The request shall state the grounds for its contention that the imposition of a remedy is in error. (7-1-99)T

a. During this administrative review, the position of the Department and the home may be discussed and if possible an alternative to revocation or denial developed. (7-1-99)T

b. The Department shall transmit printed notice of administrative review. Such notices shall set forth date, time, and location whenever the home has requested and been granted a review on imposition of a remedy. The home shall post all notices so provided. The notices shall be placed in areas readily accessible and visible to residents and their representatives. (7-1-99)T

c. The Department shall issue a written decision within fourteen (14) calendar days of the completion of the home's receipt of the administrative review. The review shall be made solely on the basis of the certifying agency recommendation, the survey report, the statement of deficiencies, any documentation the home submits to the Department at the time of its request, and information received as a result of the administrative review process. For the purposes of such review, a hearing shall not be held and oral testimony shall not be taken. (7-1-99)T

d. If the home fails to file a timely request, the decision to impose a remedy or remedies shall become final and no further hearing or judicial review shall be available. (7-1-99)T

03. Administrative Hearing. Should the home wish to appeal the administrative review decision for remedies described in Section 725 subject to the limitations therein, it may request an administrative hearing in accordance with the provisions of IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings," Section 301, et seq. The scope of the administrative hearing shall be limited to issues raised and meaningfully addressed in the administrative review. (7-1-99)T

734. TRANSFER OF RESIDENTS.

The Department may transfer residents from a home to an alternative placement on the following grounds: (7-1-99)T

01. Violation Of Rules. As a result of a violation of a provision of the rules or standards, the home's is unable or unwilling to provide an adequate level of meals, lodging, personal assistance, or supervision to persons residing in the home at the time of the violation; (7-1-99)T

02. Violation Of Resident's Rights. A violation of a resident's rights provided in Sections 39-3316, 39-3387, 39-3516, 39-3576, or a combination, Idaho Code; and (7-1-99)T

03. Imminent Danger. A violation of a provision of this chapter or applicable rules or standards results in conditions that present an imminent danger. (7-1-99)T

735. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by IDAPA 16.05.03, "Rules Governing Contested Cases Proceedings and Declaratory Rulings," Section 300. (7-1-99)T

997. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department is subject to the restrictions contained in IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records". (7-1-99)T

998. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.21 - RULES FOR RESIDENTIAL CARE FACILITIES IN IDAHO

DOCKET NO. 16-0321-9601

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-3305, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the August 7, 1996 Administrative Bulletin, Volume 96-8, page 161.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact John Hathaway at (208) 364-1863.

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

IDAPA 16
TITLE 03
Chapter 21

RULES FOR RESIDENTIAL CARE FACILITIES IN IDAHO

This Rule Is Being Repealed In Its Entirety.

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-8, August 7, 1996, page 161.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
2000 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.22 - RULES FOR RESIDENTIAL CARE FACILITIES IN IDAHO
DOCKET NO. 16-0322-9602
NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 39-3505, Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the August 7, 1996 Administrative Bulletin, Volume 96-8, pages 162.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact John Hathaway at (208) 334-6626.

DATED this 21st day of June, 1999

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IDAPA 16
TITLE 03
Chapter 22

RULES FOR RESIDENTIAL CARE FACILITIES IN IDAHO

This Rule Is Being Repealed In Its Entirety.

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 96-8, August 7, 1996, page 162.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
2000 Idaho State Legislature for final adoption.**

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.22 - RULES FOR RESIDENTIAL CARE FACILITIES IN IDAHO
DOCKET NO. 16-0322-9603
NOTICE OF RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5221 and 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rulemaking previously adopted under this docket. The action is authorized pursuant to Section(s) 39-3300, 39-3500, and House Bill 742 adopted by the 1996 Idaho Legislature, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the vacation:

This temporary rule is being rescinded and rewritten in Docket No. 16-0322-9901 and Docket No. 16-0319-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rescission of the temporary rule, contact John Hathaway at (208) 334-6626.

DATED this 21st day of June, 1999

Sherri Kovach
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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.22 - RULES FOR RESIDENTIAL CARE FACILITIES IN IDAHO
DOCKET NO. 16-0322-9603
NOTICE OF VACATION OF RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 39-3300, 39-3500, and House Bill 742 adopted by the 1996 Idaho Legislature, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a summary of the reasons for the vacation:

This docket is being vacated and re-written in Docket No. 16-0322-9901 and Docket No. 16-0319-9901.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of the proposed rulemaking, contact John Hathaway at (208) 334-6626.

DATED this 21st day of June, 1999.

Sherri Kovach
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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.03.22 - RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES IN IDAHO
DOCKET NO. 16-0322-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: These temporary rules are effective July 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 39-3505 and 39-3525(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking and in conjunction with IDAPA 16.03.19, "Rules Governing Certified Family Homes," Docket No. 16-0319-9901, will be held as follows:

August 11, 1999, at 7:00 pm
Coeur d'Alene Inn, Hayden Room
414 West Appleway Ave., Coeur d'Alene, Idaho

August 18, 1999, at 7:00 pm
Ameritel Inn, Pebble Creek Room
1440 Bench Rd., Pocatello, Idaho

August 23, 1999, at 7:00 pm
Ameritel Inn, Tablerock Room
7965 W. Emerald, Boise, 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, to the agency address below.

DESCRIPTIVE SUMMARY: The 1996 Legislature passed H.B. 742 which amended the Idaho Board and Care Act and the Residential Care for the Elderly Act. Among other items it required that anyone who provided care commercially to the elderly or individuals with a physical disability, mental illness, or developmental disability to meet at a minimum the requirements of the adult foster care or residential care rules depending upon the size of the facility. This includes adult foster care homes, 1501 homes, personal care services homes, specialized family homes, and residential care facilities.

In the past, each of these types of facilities operated with differing minimum requirements for safety, supervision, and care. The Department of Health and Welfare believes that a better approach is to develop one common set of standards for all residential facilities which must be licensed regardless of program type.

TEMPORARY RULE JUSTIFICATION: Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to protect the public health, safety, or welfare and to comply 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:

In accordance with the authority granted the Department of Health and Welfare in Sections 39-3505 and 39-3525(2), Idaho Code, these rules will require potential facilities to pay a building evaluation fee to determine if the building chosen to be the facility's physical plant meets the requirements prior to being licensed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary or proposed rule, contact John Hathaway at (208) 364-1863.

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

DATED this 21st day of June, 1999.

Sherri Kovach
Administrative Procedures Coordinator
DHW - Division of Legal Services
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. 16-0322-9901

IDAPA 16
TITLE 03
Chapter 22

16.03.22 - RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES IN IDAHO

000. LEGAL AUTHORITY.

Pursuant to Sections 39-3305, 39-3371, 39-3505, and 39-3561, Idaho Code, the Idaho Board of Health and Welfare is authorized to adopt and enforce rules and standards designed to protect the health, safety, and individual resident's rights and to ensure the provision of adequate nutrition, supervision, meaningful life activities, and therapeutic recreational activities for residents being served in residential care facilities. (7-1-99)T

001. TITLE AND SCOPE.

The purpose of a licensed residential and assisted living facility in Idaho is to provide a humane, safe, and home-like living arrangement for individuals with a mental illness, developmental disability, physical disability, or who are elderly. The facilities shall be operated and staffed by individuals who have the knowledge and experience required to provide safe and appropriate services to all residents of the facility. The administrators shall protect the rights and provide appropriate services to meet the needs of the individual residents as determined by the uniform assessment instrument and the negotiated service agreement for both state clients and private pay residents. The state will encourage the development of facilities tailored to the needs of individual populations which operate in integrated settings in communities where sufficient supportive services exist to provide the resident, if appropriate, an opportunity to work and be involved in recreation and education opportunities alongside people who do not have a mental illness, developmental disability, physical disability, or who are not elderly. The licensing agency shall be responsible for monitoring and enforcing the provisions of this chapter. This responsibility includes, but is not limited to, licensing facilities, monitoring the condition of the facility administering a uniform assessment instrument for state clients, and taking enforcement actions. Nothing in this chapter is intended to reduce or eliminate any duty of the Department or any other public or private entity for provision of services for any resident. (7-1-99)T

002. (RESERVED).

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". (7-1-99)T

004. EXEMPTIONS.

The provisions of these rules do not apply to any of the following: (7-1-99)T

01. Health Facility. The provisions of these rules do not apply to hospitals, nursing facilities, intermediate care facilities for mentally retarded persons, or any other health facility as defined by Title 39, Chapter 13, Idaho Code. (7-1-99)T

02. Alternate Living Arrangements. The provisions of these rules do not apply to any house, institution, hotel, congregate housing project, retirement home, or other similar place that is limited to providing one (1) or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities, or that have residents independently accessing supportive services from an entity approved to provide such services in Idaho and holding no legal ownership interest in the entity operating the facility. (7-1-99)T

03. Relatives. The provisions of these rules do not apply to any arrangement for the receiving and care of persons by a relative, except when the caretaker is paid for the care through a state or federal program, in which case the caretaker relative and the care setting must meet the requirements of the program that funds the care. (7-1-99)T

04. Similar. The provisions of these rules do not apply to any facility exempted by the Director. (7-1-99)T

005. WAIVERS.

Waivers may be granted by the Department provided the following criteria are met: (7-1-99)T

01. Written Request. A written request for waiver must be sent to the licensing agency. The request must include, but is not limited to, the following: (7-1-99)T

a. Reference to the section of the rules for which the waiver is requested; (7-1-99)T

b. Reasons that show good cause why the waiver should be granted, the extenuating circumstances which caused the need for the waiver, any compensating factors or conditions that may have bearing on the waiver such as additional floor space or additional staffing; and (7-1-99)T

c. Written documentation that assures residents' health and safety will not be jeopardized if the waiver is granted. (7-1-99)T

02. Temporary Waivers. A temporary waiver may be granted for up to one (1) year. (7-1-99)T

03. Continuing Temporary Waivers. The appropriateness of continuing a waiver shall be reviewed by the licensing agency during the annual survey. If the facility administrator wishes to continue the waiver, an annual request must be submitted to the Department in writing. (7-1-99)T

04. Permanent Waiver. A permanent waiver may be granted provided the provisions of Subsections 005.01.a. through 005.01.c. are met. (7-1-99)T

05. Decision To Grant A Variance. The decision to grant a waiver shall not be considered as precedent or be given any force or effect in any other proceeding. (7-1-99)T

006. SERVICES.

Supportive services shall be provided according to the resident's individual negotiated service agreement. (7-1-99)T

007. POLICY.

Many of the residents of facilities are unable to assess situations or respond quickly to emergencies. The residents' safety is dependent upon properly designed and constructed buildings with provisions for the prevention and detection of fires to include alarm and extinguishment systems. Individuals who understand operating and maintenance procedures are essential. The residents' welfare is dependent upon care, attention, motivation, and advice

delivered at the proper time by skilled people. Every person or organization operating a facility must take responsibility for the safety and well-being of those in their care. (7-1-99)T

008. INCORPORATION BY REFERENCE.

All documents referenced herein shall constitute the full adoption by reference of those documents as provided by Section 67-5229 (a), Idaho Code. (7-1-99)T

01. Documents Incorporated. The following documents are incorporated in these rules: (7-1-99)T

a. National Fire Protection Association (NFPA), Life Safety Code, National Standards Council, 1981 and 1988 Editions; (7-1-99)T

b. National Fire Protection Association (NFPA), National Fire Code, Volumes 1 -- 11, 1990 Edition; (7-1-99)T

c. National Fire Protection Association, NFPA 101M, 1988 Edition, Manual on Alternative Approaches to Fire Safety; (7-1-99)T

d. Uniform Building Code, International Conference of Building Officials, 1988 Edition; (7-1-99)T

e. Idaho Diet Manual, Idaho Dietetic Association, Eighth Edition 1998; (7-1-99)T

f. IDAPA 16.02.19, "Rules Governing Food Safety and Sanitation Standards For Food Establishments (UNICODE)," July 1, 1998; (7-1-99)T

g. Administrative Rules of the Idaho State Board of Nursing, IDAPA 23.01.01, "Rules of the Board of Nursing"; and (7-1-99)T

h. Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36, Appendix A. (7-1-99)T

02. Availability Of Documents. The incorporated documents are available for public review at the following locations: (7-1-99)T

a. Administrative Procedures Section, Department of Health and Welfare, 450 West State Street, 10th Floor, P.O. Box 83720, Boise Idaho, 83720-0036 or the licensing agency. (7-1-99)T

b. Idaho Supreme Court Law Library, 451 West State Street, Boise, Idaho, 83720. (7-1-99)T

009. (RESERVED).

010. DEFINITIONS.

01. Abuse. The non-accidental infliction of physical pain, injury, or mental injury. (7-1-99)T

02. Activities. All organized and directed social and rehabilitative services a facility provides, arranges, or cooperates with. (7-1-99)T

03. Activities Of Daily Living. The performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communicating, continence, managing money, mobility, and associated tasks. (7-1-99)T

04. Adequate Care. Services provided to the resident as described in his negotiated service agreement and within accepted standards of practice. (7-1-99)T

05. Administrator. The person who has primary responsibility for the day-to-day administration of the facility with three (3) or more residents and is employed as a full-time administrator and licensed by the state of Idaho. The administrator and legal owner may not necessarily be the same individual. A full-time administrator shall

devote no less than twenty (20) hours a week to the day-to-day administration of the facility. The Department will consider a waiver based on an approved plan of administration and operation by the facility. (7-1-99)T

06. Adult. A person who has attained the age of eighteen (18) years. (7-1-99)T

07. Advanced Directive. A written instruction, such as a living will or durable power of attorney for health care, recognized under State Law, whether statutory or as recognized by the courts of the State, and relates to the provision of medical care when the individual is unable to communicate. (7-1-99)T

08. Advocate. An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by a facility. (7-1-99)T

09. Alzheimer's Disease And Related Dementia. A progressive, degenerative, terminal disease that attacks the brain and results in impaired memory, thinking, and behavior. The person may experience memory loss, confusion, personality, and behavior changes, impaired judgment, difficulty finding words, finishing thoughts, following directions, and difficulty with other cognitive efforts. (7-1-99)T

10. Ambulatory Person. A person who, unaided by any other person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs. (7-1-99)T

11. Assessment. The conclusions reached using uniform criteria developed by the Department and relevant councils for determining a person's need for care and services. (7-1-99)T

12. Basement. Any floor level below the first story in a building except that a floor level in a building having only one (1) floor level shall be classified as a basement. (7-1-99)T

13. Behavioral Management. A written program which actively builds and develops new or alternative styles of independent functioning and promotes new behavior which results in the highest potential level of self-sufficiency. (7-1-99)T

14. Care And Supervision. The provision by the facility of one (1) or more of the following services: (7-1-99)T

a. Assisting the resident with activities of daily living; (7-1-99)T

b. Arranging for supportive services; (7-1-99)T

c. Being aware of the resident's general whereabouts; (7-1-99)T

d. Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety, and well-being; and (7-1-99)T

e. Assisting residents with self-administration of medication. (7-1-99)T

15. Chemical Restraint. The use of any medication that results or is intended to result in the modification of behavior. (7-1-99)T

16. Client Of The Department. Any person who receives financial aid, or services, or both from an organized program of the Department. (7-1-99)T

17. Complaint Investigation. A survey or visit to determine the validity of allegations of resident abuse, neglect, misappropriation of resident property, or of other noncompliance with applicable state requirements. (7-1-99)T

18. Criminal Offense. Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section 4A1.2(o), and 18 U.S.C. Sections 1001 through 1027. (7-1-99)T

19. **Deficiency.** A determination of non-compliance with a specific rule or part of a rule. (7-1-99)T
20. **Department.** The Idaho Department of Health and Welfare. (7-1-99)T
21. **Developmental Disability.** A developmental disability, as defined in Section 66-402, Idaho Code, means chronic disability of a person which appears before the age of twenty-two (22) years of age and: (7-1-99)T
- a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism, or other conditions found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and (7-1-99)T
- b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity of independent living, or economic self-sufficiency; and (7-1-99)T
- c. Reflects the need for a combination and sequence of special, interdisciplinary or direct care, treatment or other services which are of life-long or extended duration and individually planned and coordinated. (7-1-99)T
22. **Director.** The Director of the Idaho Department of Health and Welfare or his designee. (7-1-99)T
23. **Elderly.** A person sixty-five (65) years or older who does not have a primary diagnosis of mental illness, or developmental disability, or both, and who does not require active treatment. (7-1-99)T
24. **Exploitation.** An action which may include, but is not limited to, the misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage. (7-1-99)T
25. **Finding.** A determination resulting from a survey or complaint investigation of the facility that a potential compliance issue is present, and could, or should have been prevented, or has not yet been identified by the facility, is not being corrected by proper action by the facility, or cannot be justified by special circumstances unique to the facility or the resident. A finding may or may not be cited as a deficiency based upon the scope and severity of the noncompliance. (7-1-99)T
26. **Follow-Up Survey.** A survey conducted to verify corrections of deficiencies cited during the previous survey. (7-1-99)T
27. **Full License.** A one (1) year license issued by the licensing agency of the Department to a facility complying with this chapter. (7-1-99)T
28. **Functional Abilities Assessment.** An assessment of the resident's physical, mental, emotional, and social abilities to cope with the affairs and activities of daily living. (7-1-99)T
29. **Governmental Unit.** The state, any county, municipality, or other political subdivision or any department, division, board, or other agency thereof. (7-1-99)T
30. **Hands On.** Physical assistance to the resident beyond verbal prompting. (7-1-99)T
31. **Hourly Adult Care.** Nonresident daily services and supervision provided by a facility to individuals who are in need of supervision outside of their personal residence for a portion of the day. (7-1-99)T
32. **Immediate Jeopardy.** The licensing agency has determined that residents are subject to an imminent or substantial danger. (7-1-99)T
33. **Independent Mobility.** A resident's ability to move about freely of their own choice with or without the assistance of a mobility device such as a wheelchair, cane, crutches, or walker. (7-1-99)T
34. **Individual Support Plan.** The written individualized plan approved by the Department, which

must be based on a person-centered planning and assessment process outlining the consumers' needs, desires, goals, and objectives, and include the specific types, amounts, frequency, and duration of waiver services to be provided by the agency. (7-1-99)T

35. Initial Deficiency. The first time that a deficiency or deficiencies are recorded by a surveyor as the result of a survey or complaint investigation. Initial deficiency may be records of deficiencies that occurred prior to the date of the survey visit even if the deficiencies no longer exist at the time of the current survey. (7-1-99)T

36. Legal Guardian/Conservator. A court-appointed individual who manages the affairs or finances or both of another who has been found to be incapable of handling his own affairs. (7-1-99)T

37. Level Of Care. This is based on a categorical assessment of the resident's functional ability and the intensity (degree) of care required in the areas of activities of daily living, supervision, response to emergency situations, mobility, medications, and behavior management. (7-1-99)T

38. Level I - Minimal Assistance. The resident requires room, board, and supervision and may require one (1) or more of the following: (7-1-99)T

- a. Minimal assistance with activities of daily living and nonmedical personal assistance. (7-1-99)T
- b. Minimal assistance with mobility -- the resident is independently mobile. (7-1-99)T
- c. Minimal assistance in an emergency -- the resident is capable of self-preservation in an emergency. (7-1-99)T
- d. Minimal assistance with medications -- the resident does not require medication management or supervision. (7-1-99)T
- e. Minimal behavior management substantiated by the resident's history. (7-1-99)T

39. Level II - Moderate Assistance. The resident requires room, board, and supervision and may require one (1) or more of the following: (7-1-99)T

- a. Moderate assistance with activities of daily living and nonmedical personal assistance. (7-1-99)T
- b. Moderate assistance with mobility but easily mobile with assistance. (7-1-99)T
- c. Moderate assistance in an emergency but resident is capable of self-preservation with assistance. (7-1-99)T
- d. Moderate assistance with medications. (7-1-99)T
- e. Moderate assistance with behavior management. (7-1-99)T

40. Level III - Extensive Assistance. The resident requires room, board, supervision, and requires staff up and awake on a twenty-four (24) basis and may require one (1) or more of the following: (7-1-99)T

- a. Extensive assistance with activities of daily living. (7-1-99)T
- b. Extensive personal assistance. (7-1-99)T
- c. Extensive assistance with mobility and may be non-mobile without extensive assistance. (7-1-99)T
- d. Extensive assistance in an emergency and may be incapable of self-preservation without assistance. (7-1-99)T
- e. Extensive assistance with and monitoring of medications. (7-1-99)T

- f. Extensive assistance with training or behavior management or both. (7-1-99)T
- 41. License.** A permit to operate a facility. (7-1-99)T
- 42. Licensee.** The holder of a license to operate a facility under this chapter. (7-1-99)T
- 43. Licensed Environmental Health Specialist.** A person trained and experienced in physical, biological, chemical, and social and sanitary sciences and who is licensed by the Idaho State Bureau of Occupational Licenses. (7-1-99)T
- 44. Licensing Agency.** The unit of the Department of Health and Welfare that conducts inspections and surveys and issues licenses based on compliance with this chapter. (7-1-99)T
- 45. Medication.** Any substance or drug used to treat a disease, condition, or symptom, which may be taken orally, injected, or used externally and is available through prescription or over-the-counter. (7-1-99)T
- 46. Medication Administration.** The issuance of one or more doses of prescribed medication to an individual. (7-1-99)T
- 47. Medication Assistance.** Assistance to a resident in taking his medication including reminding the resident to take medication, removing a medication container from storage, assisting with the removal of the cap, assisting with the removal of a medication from a container for residents with a disability which prevents independence in this act, and observing the resident taking the medication. (7-1-99)T
- 48. Medication Dispensing.** Medication dispensing is the issuance of a medication in its original container with a pharmacy label bearing the instructions ordered by the prescriber. (7-1-99)T
- 49. Mentally III.** A person with one (1) or more of the following: (7-1-99)T
- a. A significant disorder of thought, mood perception, orientation, or memory which impairs judgment, behavior, and capacity to recognize and adapt to reality; (7-1-99)T
- b. Over a period of time has demonstrated marginal social adjustment which prevents him from living independently in the community; (7-1-99)T
- c. Manifested difficulties in social or personal adjustment associated with psychiatric disability, as demonstrated in reduced, lost, or underdeveloped capacities relative to: (7-1-99)T
- i. Personal relationships; (7-1-99)T
- ii. Living arrangements; (7-1-99)T
- iii. Work; (7-1-99)T
- iv. Recreation; (7-1-99)T
- v. Personal care; (7-1-99)T
- vi. Community living skills; or (7-1-99)T
- vii. Other primary aspects of daily living. (7-1-99)T
- 50. Monitoring Visit.** A visit by a representative of the Department for the purpose of verifying a facility's correction of deficiencies, or to observe the orderly transfer of residents, during a facility's closure. (7-1-99)T

- 51. Neglect.** The negligent failure to provide those goods or services which are reasonably necessary to sustain the life and health of a person pursuant to Section 39-5302(8), Idaho Code. (7-1-99)T
- 52. Negotiated Service Agreement.** The agreement reached by the resident and their representative and the facility based on the assessment, physician's orders, if any, admission records, if any, and desires of the resident, and which outlines services to be provided and the obligations of the facility and the resident. (7-1-99)T
- 53. Owner.** Any entity, governmental unit, or person having legal ownership of the facility. (7-1-99)T
- 54. Personal Assistance.** The provision by the staff of the facility of one (1) or more of the following services: (7-1-99)T
- a. Assisting the resident with activities of daily living. (7-1-99)T
 - b. Arranging for supportive services. (7-1-99)T
 - c. Being aware of the resident's general whereabouts and supervision as required in the resident's negotiated service agreement. (7-1-99)T
 - d. Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety, and well-being. (7-1-99)T
 - e. Assisting residents with self-administration of medication. (7-1-99)T
- 55. Personnel.** Paid or unpaid individuals assigned with the responsibility of oversight of the facility. (7-1-99)T
- 56. Physical Restraint.** Any device or physical force that restricts the free movement of, normal functioning of, or normal access to a portion or portions of an individual's body. Excluded are physical guidance and prompting techniques of brief duration. (7-1-99)T
- 57. PRN.** A medication or treatment prescribed by a medical professional to an individual allowing the medication to be given as needed. (7-1-99)T
- 58. Pressure Ulcers.** Localized areas of cellular necrosis, pressure ulcers occur most often in the skin and subcutaneous tissue over bony prominence, particularly the sacrum, ischial tuberosities, great trochanter, heels, malleoli, and elbows. (7-1-99)T
- 59. Provisional License.** A license which may be granted to a facility which is not in compliance with the rules but which has no deficiencies that would endanger the health or safety of the residents, pending the satisfactory correction of all deficiencies. (7-1-99)T
- 60. Psychosocial History.** A combined summary of psychological and social histories of an individual designed to inform a care giver of a person's strengths, weaknesses, and potential problems. (7-1-99)T
- 61. Publicly Funded Programs.** Any program funded in whole or in part by an appropriation of the U.S. Congress, the Idaho Legislature, or a county commission. (7-1-99)T
- 62. Punishment.** Any procedure in which an adverse consequence is presented to a resident that is designed to produce a decrease in the rate, intensity, duration or probability of the occurrence of a behavior; or the administration of any noxious or unpleasant stimulus or deprivation of a resident's rights or freedom for the purpose of reducing the rate, intensity, duration, or probability of a particular behavior. (7-1-99)T
- 63. Relative(s).** Persons related by birth, adoption, or marriage to the first degree and grand parent and grand child. (7-1-99)T
- 64. Repeat Deficiency.** A violation or deficiency found on a resurvey or revisit that was also found on

the previous survey or visit. (7-1-99)T

65. Repeated Noncompliance. A finding of substandard quality of care on three (3) consecutive surveys, or visits, or both. (7-1-99)T

66. Representative Of The Department. An employee of the Department or a designee of the Department. (7-1-99)T

67. Resident, Boarding Home. An individual who lives and functions independently and is responsible for making his own decisions. (7-1-99)T

68. Residential And Assisted Living Facility. One (1) or more buildings constituting a facility or residence, however named, operated on either a profit or nonprofit basis, for the purpose of providing twenty-four (24) hour care for three (3) or more adults who need personal care or assistance and supervision essential for sustaining activities of daily living or for the protection of the individual. In this chapter Licensed Residential and Assisted Living Facilities shall be referred to as "facility". It is the same entity defined in Sections 39-3302(29) and 39-3502(29), Idaho Code. Distinct segments of a facility may be licensed separately, provided each segment meets all applicable rules. (7-1-99)T

69. Resident, Residential And Assisted Living Facility. All occupants of a facility other than the owner, administrator, their immediate families, or employees. (7-1-99)T

70. Room And Board. Lodging and meals. (7-1-99)T

71. Scope. The frequency, incidence, or extent of the occurrence of a deficiency in a facility. (7-1-99)T

72. Self-Administration Of Medication. The act of a resident taking a single dose of his own medication from a properly labeled container and placing it internally in, or externally on, his own body as a result of an order by a physician and dentist. (7-1-99)T

73. Self Preservation. An individual's ongoing ability to execute actions necessary to safeguard against personal harm, injury, or accident. (7-1-99)T

74. Service Plan. The Negotiated Service Agreement, Personal Care Plan, Plan of Care, or Individual Support Plan. (7-1-99)T

75. Severity. The seriousness of a deficiency, which means the degree of actual or potential negative impact on a resident (as measured by negative outcomes or rights violations) or the degree to which his highest practicable physical, mental, or psychosocial well-being has been compromised. (7-1-99)T

76. Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or floor above. If the finished floor level directly above a basement or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement or unused under-floor space shall be a story. (7-1-99)T

77. Story, First. The lowest story in the building which qualifies as a story, as defined herein, except that a floor level in a building having only one (1) floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty percent (50%) of the total perimeter, or more than eight (8) feet below grade, as defined herein, at any point. (7-1-99)T

78. Substandard Quality Of Care. A finding by the licensing agency of one (1) or more deficiencies, the existence of which limit(s) the facility's ability to deliver adequate care or services. (7-1-99)T

79. Substantial Compliance. A facility is in substantial compliance with these rules when there are no deficiencies which endanger the health, safety, or welfare of the residents. (7-1-99)T

80. Supervision. Administrative activity which provides protection, guidance, knowledge of the resident's whereabouts, and assistance with activities of daily living. The administrator is responsible for providing appropriate supervision based on each resident's negotiated service agreement. (7-1-99)T

81. Supportive Services. The specific services that are provided to the resident in the community and that are required by the negotiated service agreement or reasonably requested by the resident. (7-1-99)T

82. Survey. An on-site review conducted by a surveyor to determine compliance in the areas of quality of care, rehabilitative care, resident rights, administrative services, dietary and nutrition services, activities, social participation, sanitation, infection control, and physical environment. (7-1-99)T

83. Surveyor. A person authorized by the Department to conduct surveys or complaint investigations to determine compliance with program requirements. (7-1-99)T

84. Temporary License. A license, not to exceed six (6) months in duration, which shall be issued to a facility upon compliance with the initial application process. The purpose of the temporary license is to give the Department time to determine the facility's ongoing capability to provide services and to meet rules. (7-1-99)T

85. Trust Account. Accounts maintained by the facility separate from its own accounts, to deposit, hold, or disburse monies belonging to residents. The facility shall be the trustee of such accounts and the residents shall be the beneficiaries. (7-1-99)T

86. Uniform Assessment Instrument. A set of standardized criteria adopted by the Department of Health and Welfare to assess functional and cognitive abilities pursuant to IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients". (7-1-99)T

87. Waiver Services. Home and Community Based (HCBS) Services. (7-1-99)T

88. 1501 Home. A home as authorized by Section 39-3561(9) of the Idaho Code, to provide care and supervision for up to four (4) adults. Certification as a 1501 home is not transferable to another person or location other than as originally certified. Homes certified under this provision shall not be subject to the licensed residential care facility administrator or facility licensing requirements of Title 54, Chapter 42, Idaho Code, or Title 39, Chapters 33 and 35, Idaho Code. With the exception of the limitation on numbers of residents, 1501 homes are subject to all rules regarding certified family homes in Idaho. (7-1-99)T

011. -- 100. (RESERVED).

101. GENERAL REQUIREMENTS FOR A LICENSE.

01. Current Valid License. After July 1, 1996, no person, firm, partnership, association or corporation within the state, and no governmental unit shall operate, establish, manage, conduct, or maintain a facility for individuals with a mental illness, developmental disability, physical disability, the elderly, or a combination of resident populations, in the State without a current valid license issued by the Department. (7-1-99)T

02. Application. Any person or governmental unit proposing to operate a facility for individuals with a mental illness, developmental disability, physical disability, the elderly, or a combination of resident populations shall apply for a license to the licensing agency specifying the types of residents to be served and the level of care to be provided. (7-1-99)T

03. Distinctive Name. Every facility shall use a distinctive name in applying for a license, and the name shall not be changed without first notifying the Department in writing at least thirty (30) calendar days prior to the date that the proposed name change is to be effective. (7-1-99)T

04. General Condition Of Licensure. As a general condition of licensure, the following goods or services shall be provided to the resident as part of the base charge: (7-1-99)T

- a. Appropriate, adequate supervision as outlined in the resident's negotiated service agreement; and (7-1-99)T
- b. Room and board; and (7-1-99)T
- c. Furnishings and equipment as outlined in Section 550; and (7-1-99)T
- d. Staffing; and (7-1-99)T
- e. Negotiated service agreement development and implementation; and (7-1-99)T
- f. Provision for arrangement of reasonable transportation to community activities, recreational, religious activities, or a combination of activities. (7-1-99)T

05. Department Access. Each facility, all buildings associated with its operation and all records required under these rules shall be accessible at all times to the Department for the purposes of inspection, with or without prior notification. (7-1-99)T

06. Issuance To Person And Address. A license to operate a facility shall be issued specifically in the name of the applicant applying for a license, and only to the address of the facility stated in the application. (7-1-99)T

102. APPLICATIONS.

01. Initial License. The owner/applicant shall apply for a license on forms provided by the Department giving such information as the Department shall require including, but not limited to: (7-1-99)T

a. A written statement that the applicant has thoroughly read and reviewed this chapter and is prepared to comply with all provisions of IDAPA 16.03.22, "Rules for Licensed Residential and Assisted Living Facilities in Idaho"; (7-1-99)T

b. Satisfactory evidence that the applicant is of reputable and responsible character to include a criminal history check as provided in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". A criminal history check must be repeated every three (3) years. If the applicant is unable to obtain an acceptable criminal record clearance, the Department shall deny the application; (7-1-99)T

c. A signed resume including a chronological employment history covering the last five (5) years; (7-1-99)T

d. Four (4) character references, two (2) of which must be provided by professional licensed individuals, including addresses and telephone numbers. Character references may not include relatives; (7-1-99)T

e. The applicant must provide a written statement that discloses any license revocation or other disciplinary action taken or in the process of being taken, against a license held or previously held by the entities in Idaho as specified in Section 39-3345 or 39-3545 or both, Idaho Code, or any other jurisdiction, or that verifies that the applicant has never been involved in any such action; (7-1-99)T

f. A statement must be provided which indicates that the applicant has completed the Department approved orientation; (7-1-99)T

g. If the owner/applicant is not the administrator, then the administrator shall meet the requirements of Subsections 102.01 through 102.01.f., 102.01.p., and 102.01.q.; (7-1-99)T

h. If the owner/applicant is a firm, association, organization, partnership, business trust, corporation, or company, the administrator or other members of the organization who will provide direct resident care or who will directly influence the facility shall provide the information contained in Subsections 102.01.a. through 102.01.g. Each shareholder/investor holding ten percent (10%) or more interest in the firm shall be listed on the application;

- (7-1-99)T
- i. Evidence of liability insurance sufficient to cover claims against the facility; (7-1-99)T
 - j. A statement from the local fire authority that the facility is located in a lawfully constituted fire district or affirmation that a lawfully constituted fire authority will respond to a fire at the facility; (7-1-99)T
 - k. The building shall be required to meet all applicable requirements of local, state, and national codes, including current electrical and plumbing requirements; (7-1-99)T
 - l. A statement from a licensed electrician or the local/state electrical inspector that all wiring in the facility complies with applicable local codes. A copy of the statement shall be kept on file at the facility; (7-1-99)T
 - m. If the facility is not utilizing an approved municipal water or sewage treatment system, a statement from a local environmental health specialist indicating that the water supply and sewage disposal system meet the requirements of the Department. The reports shall be kept on file at the facility, and shall be kept current; (7-1-99)T
 - n. Completed application form signed by the applicant; (7-1-99)T
 - o. A complete set of operational policies and procedures which meets the requirements of these rules. (7-1-99)T
 - p. Licensed Administrator Requirements. If the owner/applicant is not the administrator, only the administrator is required to be licensed as an Idaho Residential Care Administrator. (7-1-99)T
 - q. Administrator's License. A copy of the Idaho Residential Care Administrator's license, or evidence that the administrator is currently in the process of obtaining a license, must be provided with the application. (7-1-99)T
 - r. Facility Floor Plan. A rough sketch detailing the floor plan of the facility, including measurement of all rooms, or a copy of professionally prepared blueprints shall be submitted for evaluation by the Department (see Sections 526 and 527). (7-1-99)T

02. Building Evaluation Fee. The application must be accompanied by a five hundred dollar (\$500) initial building evaluation fee. (7-1-99)T

03. Written Request For Building Evaluation. The applicant must provide a written request for a building evaluation for existing buildings, which includes the address of the building that is to be evaluated; the level of care of the residents for whom the building is being evaluated to serve; and the name, address, and telephone number of the person who is to receive the building evaluation report completed by the Department. (7-1-99)T

04. Failure Of The Applicant To Cooperate With The Licensing Agency In The Completion Of The Application Process Shall Result In The Denial Of The Application. Failure to cooperate means that the information described in this section of the rules has not been provided, or not provided in the form requested by the licensing agency, or both. This application process cannot exceed six (6) months. (7-1-99)T

103. CHANGE OF OWNERSHIP.

01. Nontransferability Of License. Licenses are not transferable from one (1) individual to another or from one (1) lessee to another or from one (1) location to another. When a change of ownership, lease, or location occurs, the facility must be relicensed, and the new operator must follow the application procedures described above. (7-1-99)T

02. Application For Change Of Ownership. The application for a change of ownership must be submitted to the licensing agency at least sixty (60) days prior to the proposed date of change. (7-1-99)T

03. Change Of Ownership For A Leased Facility In Litigation. An application for change of

ownership of a facility that is being leased from a person who is in litigation for failure to meet licensure standards, or who has had his license revoked, shall include evidence that there is a bonafide arms length agreement and relationship between the two (2) parties. See Subsection 111.02.h. (7-1-99)T

104. -- 110. (RESERVED).

111. DENIAL OF LICENSE.

01. Endangerment Of Resident's Health And Safety. The Department may deny the issuance of a license when conditions exist that endanger the health or safety of any resident. (7-1-99)T

02. Substantial Compliance With These Rules. The licensing agency may deny the issuance of a license when the facility is not in substantial compliance with these rules. Additional causes for denial of a license may include the following: (7-1-99)T

a. The applicant has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license; or (7-1-99)T

b. The applicant has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation with respect to the operation of a health facility or residential care facility or certified family home; or (7-1-99)T

c. The applicant is actively affected in his performance by alcohol or the use of drugs classified as controlled substances; or (7-1-99)T

d. The applicant is of poor moral and responsible character or has been convicted of a felony or defrauding the government; or (7-1-99)T

e. The applicant has been denied or the applicant's wrongdoing has caused the revocation of the license/certificate of any health facility, residential and assisted living facility, or certified family home; or (7-1-99)T

f. The applicant has been convicted of operating any health facility or residential care facility without a license or certified family home without a certificate; or (7-1-99)T

g. The applicant is directly under the control or influence of any person who has been subject to the proceedings described in Subsection 111.02.c.; or (7-1-99)T

h. The applicant is directly under the control or influence of any person who is of poor moral and responsible character or has been convicted of a felony or defrauding the government. (7-1-99)T

112. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.

The licensing agency is not required to review the application of an applicant who has had a license denied until five (5) years have elapsed from the date of license denial or appeal. (7-1-99)T

113. -- 124. (RESERVED).

125. LICENSE REQUIREMENTS.

01. Person And Premises. Each license issued shall be only for the premises and persons named in the application and shall not be transferable or assignable; (7-1-99)T

02. Number Of Beds And Residents. Each license shall specify the maximum allowable number of beds and residents to be housed. All occupants other than the owner, administrator, immediate family, or employees shall be included in the licensed bed capacity; and (7-1-99)T

03. Display Of License. The license shall be posted in the facility, clearly visible to the general public. (7-1-99)T

126. TYPE OF LICENSE.

01. Temporary License. Following completion of an acceptable application, the final inspection, approval of the building by the licensing agency, and after determining that the facility has the initial capability to provide services, the facility shall be issued a temporary license, not to exceed six (6) months. Within the six (6) month period, the licensing agency shall conduct a full survey to determine the facility's ongoing capability to provide services. (7-1-99)T

a. The temporary license may be replaced with a full license prior to the expiration of the temporary license, when the licensing agency has completed a revisit and has determined that the facility qualifies for a full license; or (7-1-99)T

b. During the period of the temporary license, if the licensing agency determines that the facility is not in compliance with the provisions of these rules, facility shall be denied a full license and the temporary license shall be revoked. (7-1-99)T

02. Full License. A full license shall be valid for a period of time not to exceed twelve (12) months from the date of issuance. The license shall expire at the end of its stated period unless it is extended by the licensing agency or by operation of law. (7-1-99)T

03. Provisional License. Facilities found to be in substantial compliance with these rules but which fail to comply in every detail may be issued a provisional license, when failure to comply will not adversely affect the health and safety of the residents. A license issued on the basis of substantial compliance is contingent upon the correction of deficiencies in accordance with an agreed upon plan. (7-1-99)T

a. Provisional licenses may be issued for up to six (6) months, and only to facilities that are fully licensed at the time the provisional license is issued. (7-1-99)T

b. A provisional license will not be issued to a facility operating under a temporary license. (7-1-99)T

127. EXPIRATION AND RENEWAL OF LICENSE.

01. Application For License Renewal. The application for renewal of a license shall be submitted on a form prescribed by the Department. The completed application shall be returned to the Department at least sixty (60) days prior to the expiration of the existing license. (7-1-99)T

02. Existing License. The existing license, unless suspended or revoked, shall remain in force and effect until the licensing agency has acted upon the application renewal, when such application for renewal is timely filed. (7-1-99)T

128. -- 135. (RESERVED).

136. STATE LICENSING TO SUPERSEDE LOCAL REGULATION.

These rules and standards shall supersede any program of any political subdivision of the state which licenses or sets standards for facilities. (7-1-99)T

137. -- 149. (RESERVED).

150. ENFORCEMENT PROCESS.

01. Remedies. If the Department finds that a facility does not or did not meet a rule governing licensed residential and assisted living facilities, it may impose the following remedies, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal: (7-1-99)T

a. Ban on all admissions, see Section 925; (7-1-99)T

b. Ban on admissions of residents with certain diagnosis, see Section 926; (7-1-99)T

- c. Civil monetary penalties, see Section 927; (7-1-99)T
- d. Appointment of temporary management, see Section 928; (7-1-99)T
- e. Summary suspension of the license, or transfer residents, or both, see Section 929 and 971; (7-1-99)T
- f. Issuance of a provisional license, see Section 930; or (7-1-99)T
- g. Revocation of the facility's license, see Section 931. (7-1-99)T

151. -- 169. (RESERVED).

170. UNLICENSED FACILITIES.

01. Unlicensed Facility. An operation shall be considered an unlicensed facility if it meets the definition of a facility stated in these rules, or is represented to provide care and serve the population of a residential and assisted living facility, is not licensed, and is not exempt from licensure. (7-1-99)T

02. Residents In Unlicensed Facilities. Upon discovery of an unlicensed facility, the Department shall refer residents to appropriate placement or adult protective services agency if either of the following conditions exist: (7-1-99)T

- a. There is an immediate threat to the resident's health and safety; or (7-1-99)T
- b. The unlicensed facility does not cooperate with the licensing agency to apply for a license, meet licensing standards and obtain a license. (7-1-99)T

03. Operator Of An Unlicensed Facility. A person found to be operating a facility without a license shall be guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed five thousand dollars (\$5,000), pursuant to Section 39-3352(4), Idaho Code. (7-1-99)T

04. Prosecution Of Violators. In the event the county attorney in the county where the alleged violation occurred fails or refuses to act within thirty (30) days of notification of the violation, the Attorney General is authorized to prosecute violations under the provisions of Section 39-3352(5), Idaho Code. (7-1-99)T

05. Placement Of Persons Into An Unlicensed Facility. No person shall place, refer, or recommend placement of a person into a facility which is operating without a license. To do so shall constitute a misdemeanor, pursuant to Section 39-3353, Idaho Code. (7-1-99)T

171. -- 180. (RESERVED).

181. INSPECTIONS.

01. Inspection Of Facilities. The licensing agency shall cause to be made such inspections and investigations, based on previous survey results, as it may deem necessary to determine compliance with this chapter and applicable rules and standards. (7-1-99)T

02. Unannounced Inspections. For licensed facilities, with the exception of initial surveys, all inspections and investigations will be made unannounced and without prior notice. (7-1-99)T

03. Inspection Services. The licensing agency may utilize the services of any legally qualified person or organization, either public or private, to examine and inspect any entity requesting a facility license. (7-1-99)T

04. Access And Authority. An inspector shall have full access and authority to examine among other things, quality of care, services delivery, resident records, facility's records including any records or documents

pertaining to any financial transactions between residents and the facility or any of its employees, resident accounts, physical premises, including the condition of buildings, grounds and equipment, food service, water supply, sanitation, maintenance, housekeeping practices, and any other areas necessary to determine compliance with applicable rules and standards. (7-1-99)T

05. Interview Authority. An inspector shall have the authority to interview the license holder, administrator, staff, residents, residents' families, or other legally responsible person. Interviews with residents shall be confidential and conducted privately unless otherwise specified by the resident. (7-1-99)T

06. Access To The Entire Facility. The inspector shall have full authority to inspect the entire facility, including personal living quarters of operators, administrator, or staff living in the facility, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on the compliance with these rules. (7-1-99)T

07. Written Report. Following any investigation or inspection, the licensing agency shall provide within a reasonable period of time, a written report to the administrator of the facility. The report shall include the finding of the investigation or inspection. (7-1-99)T

08. Statement Of Deficiencies. If deficiencies are identified during the investigation or inspection, the facility shall be sent a statement of deficiencies which requires a plan of correction. (7-1-99)T

09. Plan Of Correction. An acceptable plan of correction must include how the deficiency was corrected or how it shall be corrected, what steps have been taken to assure that the deficiency does not recur, and acceptable time frames for correction of the deficiency. (7-1-99)T

10. Submit Plan Of Correction. The facility shall be given a reasonable period of time to develop a plan of correction and to return the plan of correction to the licensing agency. (7-1-99)T

11. Follow-Up Surveys. Follow-up surveys may be conducted to ascertain if corrections to deficiencies are being made according to time frames established in the plan of correction. (7-1-99)T

182. -- 190. (RESERVED).

191. COMPLAINTS.

01. Filing A Complaint. A person who believes that any provision of these rules has been violated may file a complaint with the Department. (7-1-99)T

02. Investigations. The licensing agency shall investigate, or cause to be investigated, any complaint alleging a violation of these rules. (7-1-99)T

03. Disclosure Of Complaint Information. The Department will not disclose the name or identifying characteristics of a complainant unless: (7-1-99)T

a. The complainant consents in writing to the disclosure; (7-1-99)T

b. The investigation results in a judicial proceeding and disclosure is ordered by the court; or (7-1-99)T

c. The disclosure is essential to prosecution of a violation. The complainant shall be given the opportunity to withdraw the complaint before disclosure. (7-1-99)T

04. Method Of Investigation. The nature of the complaint shall determine the method used to investigate the complaint. On-site investigations of facilities shall be unannounced. (7-1-99)T

05. Exit Conference. The facility administrator or his designee shall be offered an exit conference, where the findings of the investigation shall be discussed. (7-1-99)T

06. Statement Of Deficiency. If violation of these rules is identified, depending on the severity, the facility shall be sent a statement of deficiencies, shall be required to prepare a plan of correction, and return it to the licensing agency within a time frame designated by the licensing agency. (7-1-99)T

07. Actions. The licensing agency shall inform the complainant or, if requested by the complainant, the complainant's representative, of the results of the investigation and any action to be taken by the facility to resolve the problem. (7-1-99)T

192. PUBLIC DISCLOSURE.

01. Disclosure Of Resident Identity. Information received by the licensing agency through filed reports, inspections, or as otherwise authorized under the law, shall not be disclosed publicly in such a manner as to identify individual residents except as necessary in a proceeding involving a question of licensure. (7-1-99)T

02. Public Availability Of Deficiencies. A current list of deficiencies relating to a facility, including plans of correction, shall be available to the public upon written request to any regional office of the Department or to the licensing agency. (7-1-99)T

193. -- 249. (RESERVED).

250. RESIDENTS' RIGHTS.

Each facility shall develop and implement a written residents' rights policy which shall protect and promote the rights of each resident including, but not limited to, the following: (7-1-99)T

01. Resident Records. Each facility must maintain and keep current a record of the specific information on each resident (refer to Section 426). Upon request a resident shall be provided access to information in his records. (7-1-99)T

02. Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical, and other treatment, written and telephone communications, and visits and meetings of family and resident groups. (7-1-99)T

03. Humane Care And Environment. Each resident shall have the right to humane care and a humane environment including the following: (7-1-99)T

- a. The right to a diet which is consistent with any religious or health-related restrictions; (7-1-99)T
- b. The right to refuse a restricted diet; and (7-1-99)T
- c. The right to a safe and sanitary living environment. (7-1-99)T

04. Dignity And Respect. Each resident shall have the right to be treated with dignity and respect, including: (7-1-99)T

- a. The right to be treated in a courteous manner by staff; (7-1-99)T
- b. The right to receive a response from the facility to any request of the resident within a reasonable time; and (7-1-99)T
- c. The right to be free from intimidation, manipulation, coercion, and exploitation. (7-1-99)T

05. Behavior Management Programs. Each resident shall have the right to be free of unwarranted use of behavior management programs and chemical and physical restraints. (7-1-99)T

06. Habilitation/Training. The resident shall have the right to participate in a habilitation/training program if the resident qualifies for habilitation/training, as determined by an assessment, if he desires to participate,

and if the program is available. (7-1-99)T

07. Participation In The Development Of The Negotiated Service Agreement. Each resident shall have the opportunity to participate in the development of, review of, and changes to his negotiated service agreement. Residents or their legal guardians must be advised of alternative courses of care and their consequences when such alternatives are available. The resident's preference about alternatives must be elicited and considered in the development of the negotiated service agreement. (7-1-99)T

08. Personal Possessions. Each resident shall have the right to: (7-1-99)T

- a. Wear his own clothing; (7-1-99)T
- b. Determine his own dress and hair style; (7-1-99)T
- c. Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity; and (7-1-99)T
- d. Be provided a separate storage area in his own living area and at least one (1) locked cabinet or drawer, if the resident is capable of managing lock and key, for keeping personal property. (7-1-99)T

09. Personal Funds. Residents who are clients of the Department shall retain the basic allowance for their personal use. In addition, each client of the Department (Aid to the Aged, Blind, and Disabled (AABD)) is to retain the standard unearned income disregard allowed by the Department. The resident may pay the facility for personal laundry service using the income disregarded by the standard income disregard described in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled". The resident is not required to use the facility's laundry service and may retain the disregarded income for their personal use. (7-1-99)T

10. Management Of Personal Funds. A facility shall not require a resident to deposit his personal funds with the facility. If the facility manages resident funds, the facility must account for the personal funds of the resident deposited with the facility as follows: (7-1-99)T

- a. The resident must give the facility written authorization to manage his funds; (7-1-99)T
- b. The facility must assure a full and complete accounting of each resident's personal funds, maintain a written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident, or legal guardian/conservator of the resident, reasonable access to such record; (7-1-99)T
- c. The facility must deposit any amount of a resident's personal funds in excess of one hundred dollars (\$100) in an interest bearing account that is separate from any of the facility's operating accounts, and credit all interest earned on the separate account to the resident account; (7-1-99)T
- d. The facility may maintain any other resident funds in a non-interest bearing account or petty cash fund; (7-1-99)T
- e. The facility must assure that the resident has access to his personal funds during reasonable hours; (7-1-99)T
- f. Upon the death of a resident with such an account who is not a client of the Department, the facility must promptly convey the resident's personal funds, with a final accounting of such funds, to the individual administering the resident's estate; and (7-1-99)T
- g. Upon the death of a resident with such an account who is a client of the Department, the facility must promptly refund the remaining balance of the resident's personal funds, with a final accounting of such funds, to the Department. (7-1-99)T

11. Access And Visitation Rights. Each facility must permit: (7-1-99)T

a. Immediate access to any resident, by any representative of the Department, by the state Ombudsman for the elderly or his designees, by Co-AD or their designees for individuals with a developmental disability or mental illness, by the Idaho Alliance For Mental Illness or their designee for individuals with a mental illness, or by the resident's physician; (7-1-99)T

b. Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives; (7-1-99)T

c. Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident; and (7-1-99)T

d. Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time. (7-1-99)T

12. Access By Advocates And Representatives. A facility shall permit advocates and representatives of community legal services program, whose purposes include rendering assistance without charge to residents, to have access to the facility at reasonable times in order to: (7-1-99)T

a. Visit, talk with and make personal, social services programs, and legal services available to all residents; (7-1-99)T

b. Inform residents of their rights and entitlements, their corresponding obligations under state, federal, and local laws by distribution of educational materials or discussion in groups, or with individuals, or both; (7-1-99)T

c. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in all other matters in which residents are interested. This assistance may be provided individually, or in a group basis, and may include organizational activity, counseling, and litigation; (7-1-99)T

d. Engage in all other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights; (7-1-99)T

e. Communicate privately and without restrictions with any resident who consents to the communication; and (7-1-99)T

f. Observe all common areas of the facility. (7-1-99)T

13. Posting Of Pertinent Advocacy Groups. The names, addresses, and telephone numbers of all pertinent advocacy groups shall be readily available in the facility for resident access. These groups shall include, but not be limited to: (7-1-99)T

a. The state licensing agency; (7-1-99)T

b. The state Ombudsman for the elderly; (7-1-99)T

c. Co-Ad, Inc., Idaho's Protection and Advocacy System for individuals with a disability; (7-1-99)T

d. Idaho Alliance For Mental Illness for individuals with a mental illness; and (7-1-99)T

e. Adult Protection. (7-1-99)T

14. Employment. Each resident shall have the right to refuse to perform services for the facility except as contracted for by the resident and the administrator of the facility. If the resident is hired by the facility to perform services as an employee of the facility, the wage paid to the resident and withholding shall be consistent with state and federal law. (7-1-99)T

15. Confidentiality. Each resident shall have the right to confidentiality of personal and clinical records. (7-1-99)T

16. Freedom From Abuse. Each resident shall have the right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience. (7-1-99)T

17. Freedom Of Religion. Each resident shall have the right to practice the religion of his choice or to abstain from religious practice. Residents shall also be free from the imposition of the religious practices of others. (7-1-99)T

18. Control And Receipt Of Health Related Services. Each resident shall have the right to control his receipt of health related services, including: (7-1-99)T

a. The right to retain any health related services including but not limited to the services of his own personal physician and dentist; (7-1-99)T

b. The right to select the pharmacy or pharmacist of his choice; and (7-1-99)T

c. The right to confidentiality and privacy concerning his medical condition, dental condition, and treatment. (7-1-99)T

19. Grievances. Each resident shall have the right to voice and file a grievance with respect to treatment or care that is furnished, without discrimination or reprisal for voicing the grievance and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents. (7-1-99)T

20. Participation In Resident And Family Groups. Each resident shall have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility. (7-1-99)T

21. Participation In Other Activities. Each resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility. (7-1-99)T

22. Examination Of Survey Results. Each resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Department with respect to the facility and any plan of correction in effect with respect to the facility. (7-1-99)T

23. Transfer Or Discharge. Each resident shall have the right to be transferred or discharged only for medical reasons, or for his welfare or that of other residents, or for nonpayment for his stay and in non-emergency conditions is given at least fifteen (15) calendar days advance written notice prior to the date of discharge or transfer or up to thirty (30) calendar days as agreed to in the admission agreement. (7-1-99)T

24. Other Facilities. Each resident has a right to review a list of other facilities that may be available to meet his needs. (7-1-99)T

25. Citizenship Rights. Each resident has a right to be encouraged and assisted to exercise his rights as a resident and as a citizen, including the right to be informed and to vote. (7-1-99)T

26. Advanced Directives. Elderly residents shall have the right to be informed, in writing, regarding the formulation of an advanced directive to include applicable State law. (7-1-99)T

27. Other Rights. Each resident shall have any other right established by law. (7-1-99)T

28. Resident Councils. Every facility over fifteen (15) beds shall assist the residents in establishing and maintaining a resident council. The council shall be composed of residents of the facility and may include their family members. The council may extend membership to advocates, friends and others. (7-1-99)T

- 29. Council Duties.** The council shall have the following duties: (7-1-99)T
- a. To assist the facility in developing a grievance procedure; (7-1-99)T
 - b. To communicate resident opinions and concerns; (7-1-99)T
 - c. To obtain information from the facility and disseminate the information to the residents; (7-1-99)T
 - d. To identify problems and participate in the resolution of those problems; and (7-1-99)T
 - e. To act as a liaison with the community. (7-1-99)T
- 30. Waiver For Resident Council.** The requirement that every facility over fifteen (15) beds shall assist the residents in establishing and maintaining a resident council may be waived provided the following conditions are met: (7-1-99)T
- a. The operator meets regularly with residents; (7-1-99)T
 - b. Residents decline to participate in a formal council; and (7-1-99)T
 - c. Appropriate documentation exists to indicate the residents' decision. (7-1-99)T
- 251. NOTICE OF RIGHTS.** Notice of Rights. Each facility shall: (7-1-99)T
- 01. Inform Residents Orally And In Writing.** Inform each resident, orally and in writing, at the time of admission to the facility, of his resident rights during the stay at the facility; (7-1-99)T
 - 02. Written Statements.** Make available to each resident, upon request, a written statement of such rights; (7-1-99)T
 - 03. Written Description Of Rights.** The written description of resident rights in Section 250 shall include a description of the protection of personal funds and a statement that a resident may file a complaint with the licensing agency respecting resident abuse, neglect, and misappropriation of resident property in the facility; and (7-1-99)T
 - 04. Copy Of Rights Posted In The Facility.** A copy of the list of resident rights shall be conspicuously posted in the facility at all times. (7-1-99)T
- 252. -- 374. (RESERVED).**
- 375. ADMINISTRATION AND ADMINISTRATOR.** Each facility shall be organized and administered under one (1) authority. (7-1-99)T
- 376. QUALIFICATIONS OF THE ADMINISTRATOR.**
- 01. Qualifications Of The Administrator.** Each facility shall have at least one (1) full-time administrator who: (7-1-99)T
 - a. Has not been convicted of any felony or defrauding of the federal government as verified by a criminal background check (refer to Section 39-5604, Idaho Code); (7-1-99)T
 - b. Has sufficient physical, emotional, and mental capacity to carry out the requirements of the rules as verified by a statement from a licensed physician or nurse practitioner upon assuming duties; (7-1-99)T
 - c. The Department may conduct such investigations as it may deem necessary to determine the

capabilities of an administrator and may request an administrator to provide any additional information it deems necessary related to that person's character and qualifications; and (7-1-99)T

d. The administrator, his relatives, or employees shall not act as or seek to become the legal guardian of, or have power of attorney for any resident, unless a waiver is granted by the Department at the time of each survey on a case-by-case basis considering cases where guardianship is in the best interest of the resident including but not limited to medical necessity, protection from abuse/neglect, or safety and supervision issues of the resident. The administrator may not require the resident to name them as the payee as a condition of providing services. Specific limited powers of attorney to address emergency procedures where competent consent cannot otherwise be obtained are permitted. (7-1-99)T

02. Valid License For Administrator. The administrator shall have a valid residential care administrator's license. (7-1-99)T

377. RESPONSIBILITIES OF THE ADMINISTRATOR.

01. Supervision. The administrator shall provide supervision for all personnel. (7-1-99)T

02. Personnel Background Check. The administrator shall ensure that, prior to or upon hire, a background check is conducted on each employee. (7-1-99)T

03. Sufficient Personnel. The administrator shall have sufficient personnel: (7-1-99)T

a. To assure the safety and proper care of the residents in the facility based upon the physical and mental condition of the residents; (7-1-99)T

b. To assure the safety and proper care of the residents in the facility based on the size and layout of the building, or buildings, or both; (7-1-99)T

c. To assure the safety and proper care of the residents in the facility based on the capabilities and training of the personnel; (7-1-99)T

d. To assure the implementation of emergency procedures, including evacuation of the residents, if required, in accordance with the facility's disaster preparedness plan, in the event of fire, disaster, or other threats pertaining to the health, safety, and security of the residents; and (7-1-99)T

e. To assure the safety and proper care of the residents in the facility based on compliance with this chapter. (7-1-99)T

04. Personnel Job Descriptions For Personal Care To Residents. The administrator shall develop and provide written job descriptions to personnel who are responsible for providing personal care to residents. (7-1-99)T

05. Minimum Age Of Personnel. The administrator shall assure that no personnel providing hands-on care or supervision services shall be under eighteen (18) years of age. (7-1-99)T

06. Assignment Of Duties To Personnel. The administrator shall assign to each employee duties consistent with his level of education, preparation, and experience. (7-1-99)T

07. CPR And First Aid Certification For Personnel On Duty. The administrator shall assure that there is at least one (1) employee within the facility at all times who has a certification in CPR and an approved first aid course. (7-1-99)T

08. Delegation Of Authority. (7-1-99)T

a. When residents are on the premises and require care, the administrator shall not leave the premises without delegating necessary authority to a competent employee who is familiar with the residents and their needs,

emergency procedures, the location and operation of emergency equipment, and how the administrator can be reached in the event of an emergency. (7-1-99)T

- b. When all residents are off site, the administrator or his designee must be reachable in an emergency. (7-1-99)T

09. Personnel With Infections. The administrator shall assure that personnel who have a communicable disease, infectious wound, or other transmittable condition and who provide care or services to residents: (7-1-99)T

a. Shall be required to implement protective infection control techniques approved by the administrator; (7-1-99)T

b. Shall not be required to work until the infectious stage is corrected or shall be reassigned to a work area where contact with others is not expected and likelihood of transmission of infection is absent; and (7-1-99)T

- c. Shall take other effective steps to avoid spreading the employee's infection. (7-1-99)T

10. Personnel Training In Infection Control For Universal Precautions. The administrator shall assure that each person employed by the facility, including housekeeping personnel, or contract personnel, or both, who may come into contact with potentially infectious material, are trained in infection control procedures for Universal Precautions. (7-1-99)T

11. Relief Personnel. The administrator shall provide for trained relief personnel to substitute for regular personnel during vacation, illness, or other absences from the facility. (7-1-99)T

12. Notification Of Change In Administrator. Facility owners shall immediately notify the licensing agency, in writing, of a change in a facility's administrator. (7-1-99)T

13. Responsibility For Reports And Records. The administrator shall be responsible for the completion, storage, and submission of such reports and records as may be required by the licensing agency. (7-1-99)T

14. Responsibility For Compliance With Rules. The administrator shall be responsible for compliance with these rules. (7-1-99)T

378. -- 396. (RESERVED).

397. TRAINING OF FACILITY PERSONNEL.

01. Orientation Program. Each facility shall develop and follow a structured written orientation training program designed to meet the training needs of new personnel in relation to responsibilities of the facility to ensure quality of care and compliance with the rules. (7-1-99)T

02. Time Requirements. A minimum of eight (8) hours of job-related orientation training shall be provided to all new personnel before they are allowed to provide unsupervised personal assistance to residents. (7-1-99)T

03. Orientation Training Documentation. Signed evidence of personnel orientation training, indicating hours and topic, shall be retained at the facility. (7-1-99)T

398. PERSONNEL CONTINUING TRAINING.

Personnel Continuing Training Time Requirements. Each employee who provides personal assistance to residents shall receive a minimum of eight (8) hours of job related continuing training per year. Signed evidence of personnel continuing training, indicating hours and topic, shall be retained at the facility. CPR and First Aid certification are not included as part of this eight (8) hour minimum per year. (7-1-99)T

399. PERSONNEL.

- 01. Policies.** Written personnel policies shall be on file and provided to personnel which describe the employees' rights, responsibilities, and employer's expectations. (7-1-99)T
- 02. Job Descriptions.** Each employee shall be provided with a job description outlining authority, responsibilities, and duties. (7-1-99)T
- 03. Personnel Records.** A record for each employee shall be maintained and available. (7-1-99)T

400. STAFFING STANDARDS AND REQUIREMENTS.

- 01. Sufficient Personnel.** The facility shall have sufficient personnel to provide care, during all hours, required in each resident's negotiated service plan. The facility retains the full responsibility of assuring that sufficient personnel is available in the facility at all times to assure residents' health, safety, comfort, and supervision. Residents shall not be left in charge of other residents. (7-1-99)T
- 02. Residents' Sleeping Hours.** There must be as least one (1) staff person immediately available, at the facility, during residents' sleeping hours. (7-1-99)T
- 03. Level III Residents.** In facilities admitting or retaining any Level III residents or a combination of Level I, II, or III, there shall be a minimum of one (1) staff person, in the same building, up and awake during the residents' sleeping hours. (7-1-99)T
- 04. Level III Resident Waiver.** In facilities admitting or retaining any Level III clients or a combination of Level I, II, or III, the supervision requirement that personnel be up and awake on a twenty-four (24) hour basis may be the subject of a request for a waiver or variance pursuant to Section 005. In facilities of fifteen (15) beds or less, if the supervision requirement in each resident's negotiated service agreement states that during residents' sleeping hours personnel up and awake is unnecessary, a request for variance of this requirement will be considered by the Department. (7-1-99)T
- 05. Two Or More Buildings.** In facilities where residents are housed in two (2) or more detached buildings, personnel shall monitor each building on a regular basis. During the residents' sleeping hours, a staff person shall monitor each building at least once an hour. (7-1-99)T
- 06. Additional Personnel.** Additional personnel as identified by the Negotiated Service Agreement and the Universal Assessment Instrument may be required based on the following: (7-1-99)T
- a. The physical and mental condition of the residents; (7-1-99)T
 - b. The configuration and design of the building; and (7-1-99)T
 - c. The location of the facility, both in terms of time and distance, and its proximity to emergency and supportive services. (7-1-99)T
- 07. Staffing Patterns Shall Be Based On Resident Need Rather Than Resident Numbers.** (7-1-99)T
- 08. Level III Resident Waiver.** Personnel up and awake at night shall be required and a waiver or variance will not be granted when a facility has ten (10) or more Level III clients. (7-1-99)T
- 09. Work Records.** Work records shall be maintained in writing which reflect: (7-1-99)T
- a. Personnel on duty, at any given time, for the previous twelve (12) months; and (7-1-99)T
 - b. The first and last names, of each employee, and their position. (7-1-99)T

401. -- 419. (RESERVED).

420. OPERATIONAL STANDARDS AND PROCEDURES.

01. Operational Policies. Each facility shall develop and implement a written set of operational policies; which shall be available at all times and shall include, but not be limited to: (7-1-99)T

a. Appropriate transfer to other facilities for acute medical or other care to include timely transfer when needed; (7-1-99)T

b. Signed release by the resident or legal guardian/conservator for transfer of pertinent information to the receiving facility; (7-1-99)T

c. Arrangements made for emergency medical, dental, or other services; (7-1-99)T

d. Temporary detention of a resident against his will to protect him or others from harm, which shall include how this is to be accomplished, and persons to be notified including the resident's legal guardian/conservator or family, the Department and local law enforcement; (7-1-99)T

e. Maintenance of a log to include documentation indicating any significant change in a resident's physical or mental status and the facility's action or response. A twelve (12) month record of logs shall be maintained in the facility; (7-1-99)T

f. Notification of significant changes in physical or mental condition to the family, legal guardian/conservator, or should there be none, the Department; (7-1-99)T

g. Conditions under which transfer of a resident can be made without prior notification to, or consent of, the family or legal guardian/conservator; (7-1-99)T

h. Assurance that physician's orders are adhered to; (7-1-99)T

i. Death of a resident while in the facility; (7-1-99)T

j. Provision and maintenance of a system of identifying each resident's personal property and methods for safekeeping of his valuables. Each resident's clothing and other property shall be reserved for his own use; (7-1-99)T

k. Provision for the timely return of the resident's valuables and personal purchases at the time of his transfer, discharge, or death; (7-1-99)T

l. Provisions for smoking or non-smoking; (7-1-99)T

m. Provisions for alerting or calling an operator or attendant during the night and permitting any resident to secure the attention of personnel at any time; (7-1-99)T

n. Plans and procedures for the operation of the physical plant, which include, but are not limited to, utilities, fire safety, and plant maintenance; (7-1-99)T

o. Investigations and review of written reports by the administrator of every incident/accident involving a resident; and (7-1-99)T

p. Notification of the resident's family or legal guardian/conservator, or in the case of Department clients, the regional office of the Department, of any unusual happenings to a resident such as accidents, sudden illness, disease, unexplained absence, or death. (7-1-99)T

q. Any physician, nurse, employee of a public or private health facility, or a state licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, Ombudsman for the elderly, osteopath,

optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited shall immediately report such information to the Idaho Commission on Aging or its Area Agencies on Aging (Section 39-5303, Idaho Code). (7-1-99)T

r. It is the facility's responsibility to report within four (4) hours to the appropriate law enforcement agency when there is reasonable cause to believe that abuse, neglect, misappropriation of resident's property, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult resident (refer to Sections 39-5303 and 39-5310, Idaho Code). Failure to report can result in negative action up to and including revocation of the facility's license. (7-1-99)T

02. Resident Medications. There shall be a policy describing the facility's system for handling resident medications in accordance with Section 428 of these rules. (7-1-99)T

03. Behavior Management Programs. If any behavior management is used, there shall be a policy describing the facility's behavior management program which is: (7-1-99)T

- a. Designed and closely monitored to assure that the interventions of the program are positive; (7-1-99)T
- b. The least restrictive and least aversive means of obtaining the desired result; and (7-1-99)T
- c. Must be approved by an individual qualified in resident behavior management and must be approved by the Department if the client is a client of the Department. (7-1-99)T

04. Habilitation/Training. If appropriate, there shall be a policy describing the facility's habilitation/training program which: (7-1-99)T

- a. Is designed to promote optimal independence; (7-1-99)T
- b. Maximize the developmental or independence potential of the resident; and (7-1-99)T
- c. Is provided in the setting that is the least restrictive of the resident's personal liberties. (7-1-99)T

421. INCIDENTS AND COMPLAINTS.

01. Facility Response To Incidents And Complaints. Each facility shall develop and implement a written incident and complaint policy and procedure which shall include, but not be limited to, the following: (7-1-99)T

- a. A method of assuring that the owner, administrator or person designated by the administrator is notified of all incidents or complaints; (7-1-99)T
- b. That the owner, administrator or person designated by the owner or administrator has personally investigated and prepared a written report of finding for each incident or complaint; (7-1-99)T
- c. That the person making the complaint or reporting the incident has received a response of action taken to resolve the matter or a reason why no action needs to be taken; and (7-1-99)T
- d. In the case of an anonymous complaint, the administrator shall document the action taken or a reason why no action needs to be taken. (7-1-99)T

02. Administrator Availability For Complaints. In order to assure the opportunity for complaints from the residents, the neighborhood, and the community to be made directly to the owner, administrator, or person designated by the owner or administrator, each facility shall establish a regular time when the owner, administrator, or person designated by the owner, administrator shall be present to personally respond to such incidents or complaints. (7-1-99)T

03. Log Of Complaints. Each facility shall establish and maintain a separate complaint log that includes a list of all complaints lodged, the name of the person lodging the complaint, the date and time the complaint was lodged, who investigated the complaint, and what actions were taken to resolve the complaint. The complaint log shall be made available for review during visits by the licensing agency. (7-1-99)T

422. ADMISSION POLICIES.

01. Admission Policies. Each facility shall develop and follow a written admission policy. This written description of services provided by the facility to the residents shall be on file and available to the public and shown to any potential resident, his legal guardian/conservator, or both. The written admission policy shall include as a minimum, but not be limited to, the following: (7-1-99)T

- a. The purpose, quantity and characteristics of the service; (7-1-99)T
- b. Any restrictions or conditions imposed on the resident as a result of religious beliefs or philosophy of the owner or administrator, any particular dietary beliefs, or any unusual restrictions or practices or both regardless of the reason; (7-1-99)T
- c. Any limitations concerning delivery of routine personal care by persons of the opposite sex. (7-1-99)T
- d. Placement to Meet the Needs of the Resident. The health, number, age, and sex of children or other adults in the facility shall be taken into account in evaluating the appropriateness of a placement for meeting the needs of an adult. (7-1-99)T

02. Review Prior To Admission. Services offered, charges, and information required of residents shall be reviewed with the potential resident or his legal guardian/conservator prior to admission. (7-1-99)T

03. Fee Description. A written description of how fees shall be handled by the facility for a partial month's care shall be included. (7-1-99)T

04. Notice Of Increase Of Monthly Fee. Resident or resident's legal guardian/conservator shall be notified in writing of an increase in the facility monthly rates at least thirty (30) calendar days prior to such a raise in monthly rates. (7-1-99)T

05. Agreement To Handle Funds. A written agreement whether or not the facility shall accept responsibility for the residents' personal funds shall be available. (7-1-99)T

06. Signed Admission Agreement. The admission agreement must be signed by the resident or his legal guardian/conservator and a representative of the facility. (7-1-99)T

07. Policies Of Acceptable Admissions. Written descriptions of the conditions for admitting residents to the facility shall include but not be limited to: (7-1-99)T

- a. No resident shall be admitted or retained for whom the facility does not have the capability or services to provide appropriate care, or who requires a level of service, or type of service for which the facility is not licensed to provide or which the facility does not provide, or if the facility does not have the personnel, appropriate in numbers and with appropriate skill to provide such services; (7-1-99)T
- b. No resident shall be admitted or retained who requires ongoing skilled nursing, intermediate care, or care not within the legally licensed authority of the facility unless there are specialized facility provisional agreements with the Department that allow for skilled nursing or intermediate care; (7-1-99)T
- c. No resident shall be admitted or retained who requires ongoing highly technical skilled nursing procedures. Limited nursing services will require a nurse on site during the nursing procedure; (7-1-99)T

- d. No resident shall be admitted or retained who requires skilled nursing care on a twenty-four (24) hour basis; (7-1-99)T
- e. No resident shall be admitted or retained with pressure ulcers or open wounds that are not healing; (7-1-99)T
- f. No resident shall be admitted or retained with draining wounds for which the drainage cannot be contained; (7-1-99)T
- g. No resident shall be admitted or retained who is beyond the level of fire safety provided by the facility; and (7-1-99)T
- h. No resident shall be admitted or retained whose physical, emotional, or social needs are not compatible with the other residents in the facility. (7-1-99)T

08. Categories Of Residents. The facility shall notify potential residents of the types of populations it specializes in serving and it will not discriminate on the basis of race, color, national origin, religion, sex or disability. (7-1-99)T

09. Admission Of Residents. The facility shall not admit any residents without a written order by the attending physician or authorization by the Department. (7-1-99)T

10. Short-Term Care Admissions For Fourteen Days Or Less. Facilities may provide care for potential residents that meet regular admission requirements including physician orders for diet, treatment, medications, and an authorized negotiated service agreement. No admission is permitted that places the facility over its licensed bed capacity. (7-1-99)T

423. ADMISSION AGREEMENTS.

01. Admission Agreements. Prior to or on day of admission to the facility, the facility and the resident or the resident's legal guardian/conservator shall enter into an admission agreement. The agreement shall be in writing and shall be signed by both parties. The admission agreement may be integrated with the negotiated service agreement provided that all requirements for the negotiated service agreement and admission agreement are met. The admission agreement shall include at a minimum the following: (7-1-99)T

- a. Services that the facility shall provide including, but not limited to, daily activities, recreational activities, maintenance of self-help skills, assistance with activities of daily living, arrangements for medical and dental services, provisions for trips to social functions, special diets, and arrangements for payments; (7-1-99)T
- b. Whether or not the resident shall assume responsibility for his own medication including reporting missed medication or medication taken on a PRN basis; (7-1-99)T
- c. Whether or not the facility shall accept responsibility for the residents' personal funds; (7-1-99)T
- d. How a partial month's refund shall be handled; (7-1-99)T
- e. Responsibility for valuables belonging to the resident and provision for the return of residents' valuables should the resident leave the facility; (7-1-99)T
- f. Fifteen (15) calendar days' written notice or up to thirty (30) calendar days as agreed to in the admission agreement prior to transfer or discharge on the part of either party; (7-1-99)T
- g. Conditions under which emergency transfers shall be made; (7-1-99)T
- h. Permission to transfer pertinent information from the resident's medical record to an acute care facility, nursing facility, licensed residential and assisted living facility, or certified family home; (7-1-99)T

- i. Resident responsibilities as appropriate; and (7-1-99)T
- j. Other information as may be appropriate. (7-1-99)T
- k. Written documentation of the resident's preference regarding the formulation of an Advance Directive in accordance with Idaho state law. If applicable, a copy of the resident's Advance Directive shall be available. (7-1-99)T

02. Conditions Of Termination Of The Admission Agreement. The admission agreement shall not be terminated except under the following conditions: (7-1-99)T

- a. By written notification by either party giving the other party fifteen (15) calendar days' written notice or up to thirty (30) calendar days as agreed to in the admission agreement; (7-1-99)T
- b. The resident's mental or physical condition deteriorates to a level requiring evaluation, service, or both that cannot be provided in a facility; (7-1-99)T
- c. Nonpayment of the resident's bill; (7-1-99)T
- d. In emergency conditions a resident may be transferred out of the facility without fifteen (15) days' written notice or up to thirty (30) days as agreed to in the admission agreement to protect the resident or other residents in the facility from harm; and (7-1-99)T
- e. Other written conditions as may be mutually established between the resident, the resident's legal guardian/conservator and the administrator of the facility at the time of admission. (7-1-99)T

03. Admission And Discharge Register. Each facility shall maintain an admission and discharge register listing names of each resident, date admitted, the place from which the resident was admitted, date discharged, reason for discharge, and adequate identification of the facility to which the resident is discharged or future home address. (7-1-99)T

04. Maintaining The Admission And Discharge Register. The admission and discharge register shall be maintained as a separate document, apart from individual resident files, and shall be kept current. (7-1-99)T

424. UNIFORM ASSESSMENT CRITERIA.

01. Facility Responsibility For Private-Pay Residents. The facility shall develop, identify, assess, or direct a uniform needs assessment of private-pay residents who seek supported living services. The Department's uniform assessment tool may be used as the facility's identified uniform needs assessment. (7-1-99)T

02. Information To Be Included In A Uniform Needs Assessment For Private-Pay Residents. The uniform needs assessment instrument used by the facility for private-pay residents shall include, but not be limited to identification/background information, medical diagnosis, medical and health problems, prescription and over the counter medications, behavior patterns, cognitive function, functional status, and assessed level of care. (7-1-99)T

03. Qualifications Of Person Making Uniform Needs Assessments For Private-Pay Residents. The uniform needs assessment shall be conducted by persons who are trained in administering the facility's identified uniform needs assessment instrument. (7-1-99)T

04. Time Frames For Completing The Uniform Needs Assessment Instrument For Private-Pay Residents. The assessment will be completed no later than fourteen (14) calendar days after admission. The assessment shall be reviewed when there is a change in need or every twelve (12) months whichever comes first. (7-1-99)T

05. Use Of Uniform Needs Assessment For Determining The Ability Of Facility To Meet Private-Pay Resident Needs. The results of the assessment may be used to evaluate the ability of an administrator and facility

to meet the identified residents' needs. The results of the assessment may also be used to determine the need for special training or licenses or certificates that may be required in caring for certain residents. (7-1-99)T

06. Use Of The Uniform Needs Assessment Instrument In Determining Facility Staffing Ratios For Private-Pay Residents. A facility shall have sufficient numbers and types of personnel to provide care and supervision to all residents within the facility's care in accordance with each resident's negotiated service agreement based on the uniform needs assessment instrument and in accordance with any other rules governing the facility. (7-1-99)T

07. Uniform Assessments For Department Clients. Department clients shall be assessed by the Department in accordance with IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients". (7-1-99)T

425. NEGOTIATED SERVICE AGREEMENT.

01. Use Of Negotiated Service Agreement. Each resident shall enter into a negotiated service agreement to provide for coordination of services and for guidance of the personnel and management of the facility where the person resides. A personal care services plan of care and an Individual Support Plan which includes the core elements of the Negotiated Service Agreement is considered equivalent to the Negotiated Service Agreement. Upon completion, the agreement shall clearly identify the resident and describe the services to be provided to the resident and how such services are to be delivered, and the Negotiated Service Agreement shall be implemented. (7-1-99)T

02. Core Elements Of The Negotiated Service Agreement, Plan Of Care, Or Individual Support Plan. A resident's service plan shall be based on the following, but not limited to: (7-1-99)T

- a. Assessment; (7-1-99)T
- b. Service needs for activities of daily living; (7-1-99)T
- c. Need for limited nursing services; (7-1-99)T
- d. Need for medication assistance; (7-1-99)T
- e. Frequency of needed services; (7-1-99)T
- f. Level of assistance; (7-1-99)T
- g. Habilitation/Training needs, to specify the program being used; (7-1-99)T
- h. Behavioral management needs, to include a specific plan which identifies situations that trigger inappropriate behavior; (7-1-99)T
- i. Physician's signed and dated orders; (7-1-99)T
- j. Admission records; (7-1-99)T
- k. Community support systems; (7-1-99)T
- l. Resident's desires; (7-1-99)T
- m. Transfer/discharge; and (7-1-99)T
- n. Other identified needs. (7-1-99)T

03. Signature And Approval Of Agreement. The administrator and resident/resident's legal guardian/conservator, shall sign the service agreement upon its completion, no later than fourteen (14) calendar days after the

resident's admission. (7-1-99)T

04. Signing Date That The Agreement Was Approved. The administrator and resident/resident's legal guardian/conservator shall date the service agreement upon its completion, not to exceed fourteen (14) calendar days after the resident's admission. (7-1-99)T

05. Review Date. The service agreement shall document the next scheduled date of review. (7-1-99)T

06. Development Of The Service Agreement. The facility administrator shall consult the resident and those other relevant persons identified by the consumer/resident, in the development of their service agreement. As required by applicable program requirements, licensed and professional staff will be involved in the development of the plan. (7-1-99)T

07. Provision Of Copy Of Agreement. Signed copies of the agreement shall be given to the resident, to the resident's legal guardian/conservator, or for Department clients, to the Department for review, and authorization and approval, and a copy placed in the resident's records file, no later than fourteen (14) calendar days from admission. (7-1-99)T

08. Resident Choice. A resident shall be given the choice and control of how and what services the facility or external vendors will provide, to the extent the resident can make choices. (7-1-99)T

09. Record. A record shall be made of any changes or inability to provide services outlined in the negotiated service agreement. (7-1-99)T

10. External Services. The agreement shall include a statement regarding when there is no need for access to external services. (7-1-99)T

11. Periodic Review. The negotiated service agreement may be reviewed as necessary but must be reviewed at least every six (6) months. (7-1-99)T

426. RESIDENT RECORDS.

01. Admission Records. Records required for admission to a facility shall be maintained and updated and shall be confidential. Their availability without the consent of the resident, subject to IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records," shall be limited to the facility staff, professional consultants, the resident's physician and representatives of the Department. All entries shall be kept current, recorded legibly in ink, dated, signed, and shall include, but not be limited to, the following: (7-1-99)T

- a. Name and Social Security number; and (7-1-99)T
- b. Permanent address if other than the facility; and (7-1-99)T
- c. Marital status and sex; and (7-1-99)T
- d. Birth place and date of birth; and (7-1-99)T
- e. Name and addresses of responsible agent or agency including telephone numbers; and (7-1-99)T
- f. Personal physician and dentist; and (7-1-99)T
- g. Admission date and name of person who completed admission form; and (7-1-99)T
- h. Results of a history and physical examination performed by a licensed physician or nurse practitioner within six (6) months prior to admission; and (7-1-99)T
- i. For persons not clients of the Department, the history and physical shall include a description of the functional abilities of the resident including his specific strengths and limitations and the specific needs for personal

assistance and supervision indicating that the resident is appropriate for placement in a facility; and (7-1-99)T

j. A list of medications, diet, and treatments prescribed for the resident which is signed and dated by the physician giving the order; and (7-1-99)T

k. Religious affiliation if resident chooses to so state; and (7-1-99)T

l. Interested relatives and friends other than those outlined in Subsection 426.01.e. to include, names, addresses, and telephone numbers of family members, legal guardian/conservator, and significant others; and (7-1-99)T

m. For clients of the Department a psychosocial history, completed within six (6) months prior to admission, by a licensed social worker, psychologist, psychiatrist, or licensed physician; and (7-1-99)T

n. Social information, obtained by the facility through interview with the resident, family, case manager, targeted service coordinator or legal guardian/conservator. The information shall include the resident's social history, hobbies, and interests; and (7-1-99)T

o. Written admission agreement which is signed and dated by the administrator and the resident/ resident's legal guardian/conservator; and (7-1-99)T

p. A signed copy of the resident's bill of rights as detailed in Section 250, or documentation that the resident or resident's legal guardian/conservator has read and understands his rights as a resident of the facility; and (7-1-99)T

q. A copy of the resident's admission Uniform Assessment Instrument for residential and assisted living; and (7-1-99)T

r. A copy of the signed and dated admission negotiated service agreement; plan of care, or individual support plan between the resident/resident's legal guardian/conservator and the facility. (7-1-99)T

02. Ongoing Resident Records. At the time of admission, an inventory of items belonging to the resident shall be developed. That inventory can be updated at any time during their stay. Records shall be kept current, to include but not be limited to: (7-1-99)T

a. Admission information as required in Section 426.01 of this Chapter; and (7-1-99)T

b. A current list of medications, diet, and treatments prescribed for the resident which is signed and dated by the physician giving the order. Current orders may be a copy of the signed doctor's order from the pharmacy; and (7-1-99)T

c. Any incident/accident occurring while the resident is in the facility; and (7-1-99)T

d. Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. All PRN medication shall be documented with the reason for taking the medication; and (7-1-99)T

e. Notes from the contract nurse, home health, physical therapy, or other service providers, or all documenting the services provided to each resident at each visit; and (7-1-99)T

f. Documentation of significant changes in the residents' physical, mental status, or both and the facility's response; and (7-1-99)T

g. If appropriate, the resident's financial trust fund accounting records; and (7-1-99)T

h. The resident's Uniform Assessment Instruments, to include the admission assessment and all assessments for the past year, for facility care; and (7-1-99)T

- i. Signed and dated negotiated service agreements, plans of care, or individual support plans, to include the admission negotiated service agreement and all service agreements for the past year, between the resident/resident's legal guardian/conservator and the facility; and (7-1-99)T
- j. Contact name, address, phone number of individuals providing paid supports; and (7-1-99)T
- k. Signed copies of all care plans that are prepared by all outside service agencies. (7-1-99)T

03. Maintenance Of Resident Records. Resident records shall be maintained on each resident at the facility for not less than one (1) year after the resident has left the facility. (7-1-99)T

427. RESIDENT CHARGES AND FINANCIAL RECORDS.

01. Resident Funds Policies. If a resident's funds are turned over to the facility or administrator for any purpose other than payment for services allowed under these rules, or if the facility administrator, his relative, or personnel act as resident payee, the facility will be deemed to be handling residents' funds. Each facility shall develop and implement a policy and procedure outlining how residents' funds shall be handled. This policy and procedure shall include, but not be limited to, the following: (7-1-99)T

- a. The facility policy and procedure shall state whether the facility shall or shall not handle residents' funds. (7-1-99)T
- b. This policy or procedure shall be clearly stated in the admission policy and in the admission agreement. (7-1-99)T
- c. If the facility is deemed to manage funds and the resident leaves the facility under any circumstances, the facility can only retain room and board funds prorated to the last day of the fifteen (15) day notice period, or thirty (30) day notice period per agreement, or upon moving from the facility, whichever is later. All remaining funds must follow the resident, and resident funds must be used for resident expenses until a new payee is appointed. (7-1-99)T

02. Handling Of Resident Funds. If the facility agrees to handle residents' funds, the following shall apply: (7-1-99)T

- a. A separate trust account must be established for each resident. There can be no commingling of resident funds with facility funds. Borrowing between resident accounts is prohibited; (7-1-99)T
- b. Each resident shall be notified that a trust fund is available for his use if he needs this service; (7-1-99)T
- c. If it is determined that a resident needs the use of a trust fund service, the facility shall be required to deposit the residents' funds into a trust fund; (7-1-99)T
- d. A provision to bill each resident for his facility care charges on a monthly basis from the trust account; (7-1-99)T
- e. A provision to document on a monthly or on a weekly basis any financial transactions in excess of five dollars (\$5) between the resident and the facility or any of the facility's personnel. A separate transaction record shall be maintained for each resident; (7-1-99)T
- f. In any case in which the facility cannot produce proper accounting records of residents' funds or property, the facility shall be presumed to owe the funds not accounted for to the resident and restitution of the funds to the resident shall be a condition for continued operation of the facility; (7-1-99)T
- g. The facility shall not require the resident to purchase goods or services from the facility for other than those designated in the admission policies, or the admission agreement, or both; (7-1-99)T

h. The facility shall afford the resident or the resident's legal guardian/conservator or person of the resident's choosing access to the resident's financial record; (7-1-99)T

i. The facility shall afford the resident access to the his funds at least between the hours of 7 a.m. to 11 p.m. seven (7) days per week; (7-1-99)T

j. Upon the death of a private-pay resident, with a trust fund, the facility must convey the resident's personal funds and a final accounting of such funds to the individual administering the resident's estate within ninety (90) days; and (7-1-99)T

k. Upon the death of a client of the Department, with a trust fund, the facility must convey the resident's personal funds and a final accounting of such funds to the Department within thirty (30) calendar days. (7-1-99)T

428. MEDICATION STANDARDS AND REQUIREMENTS.

01. Medication Policy. Each facility shall develop and implement a written medication policy and procedure that outlines in detail the procedures to be followed regarding the delegation of medications and to include the requirements of the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Board of Nursing," Subsection 010.05, Section 400, Subsections 400.02, 400.04, and 400.05 where applicable. The medication policy shall include, but not be limited to, the following: (7-1-99)T

a. If the resident is granted responsibility for his own medication, a written approval stating that the resident is capable of self-administration of medications, must be obtained from the resident's primary physician; (7-1-99)T

b. The facility shall take the necessary precautions to protect residents from obtaining medications that are being stored either in individual resident rooms or by the facility; (7-1-99)T

c. The facility administrator shall be responsible for providing the necessary assistance to the resident in taking his medication; (7-1-99)T

d. Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. All PRN medication shall be documented with the reason for taking the medication. (7-1-99)T

02. Medication Distribution System. Medi-sets, blister pack, or other system as approved by the department must be filled by a pharmacist and appropriately labeled in accordance with pharmacy standards. A licensed nurse may fill Medi-sets which must be appropriately labeled with medication name, dosage, amount and time to be taken, and special instructions if appropriate. (7-1-99)T

03. Assistance With Medication. PRN medications and temporary routine medications of fourteen (14) days or less may be maintained in an appropriately labeled multidose container. Each medication must be given to the resident directly from the medi-set or blister pack or medication container. The resident must be observed taking the medication. (7-1-99)T

04. Unused Medication. Unused or discontinued medications shall not accumulate at the facility for longer than thirty (30) days, unless there is reason to believe that the medication will be reordered by the attending physician within a reasonable length of time. The unused medication shall be disposed of in a manner that assures that it cannot be retrieved. A written record of all disposal of drugs shall be maintained in the facility and shall include: (7-1-99)T

a. A description of the drug, including the amount; (7-1-99)T

b. The resident for whom the medication was prescribed; (7-1-99)T

- c. The reason for disposal; (7-1-99)T
- d. The method of disposal; and (7-1-99)T
- e. Signatures of responsible facility personnel and a witness. (7-1-99)T

429. ACTIVITIES.

01. Policy And Plan. Each facility shall assist, encourage and promote residents to maintain and develop their highest potential for independent living through their participation in recreational and other activities. (7-1-99)T

02. Activity Opportunities. The facility shall provide opportunities so the following activities are available to residents: (7-1-99)T

- a. Socialization through group discussion, conversation, recreation, visiting, arts and crafts, music; (7-1-99)T
- b. Daily living activities to foster and maintain independent functioning; (7-1-99)T
- c. Physical activities such as games, sports, and exercises which develop and maintain strength, coordination, and range of motion; (7-1-99)T
- d. Education through special classes or activities; and (7-1-99)T
- e. Leisure time so residents may engage in activities of their own choosing. (7-1-99)T

03. Community Resources For Activities. The facility shall utilize community resources to promote resident participation in integrated activities of their choice both in and away from the facility. (7-1-99)T

430. NURSING SERVICES.

A licensed nurse shall visit the facility at least once every month, not to exceed a forty (40) day time period. Verification of the nurse's current license must be on file at the facility. That nurse shall perform the following functions: (7-1-99)T

01. Resident Response To Medications. Conduct a nursing assessment of each resident's response to medications; and (7-1-99)T

02. Current Medication Orders. Assure that the residents' medication orders are current by verifying that the medication listed by the pharmacist on the medi-set, blister pack, or medication container, to include over-the-counter-medication as appropriate, is current with physician orders; and (7-1-99)T

03. Resident Health Status. Conduct a nursing assessment, in accordance with the resident's uniform assessment and negotiated service agreement, of the health status of each resident by identifying symptoms of illness, or changes, or both in mental and physical health status; and (7-1-99)T

04. Recommendations. Make recommendations to the administrator regarding any medication needs or other health need requiring follow up; and (7-1-99)T

05. Progress Of Previous Recommendations. Conduct a nursing assessment of the progress on previous recommendations made to the administrator regarding any medication needs or other health needs that required follow up; and (7-1-99)T

06. Self Medicator. Conduct a nursing assessment on each resident participating in a self administration medication regime of the resident's ability to safely continue the self administration medication regime for the next month; and (7-1-99)T

07. Medication Interactions And Usage. Conduct a review of residents' use of over-the-counter medications for side effects, interactions, abuse or a combination of these adverse effects. If side effects are determined the nurse shall notify the resident's physician and make the appropriate counseling available to the resident; and (7-1-99)T

08. Date. Document the nursing assessments with the date of each visit. (7-1-99)T

431. -- 449. (RESERVED).

450. FOOD SERVICE.

01. Food Services Provided By Facility. When food services are provided by any facility, the following standards and requirements shall be met: (7-1-99)T

a. Assure that all persons wear clean garments and an apron, smock, or other cover-up when working in the kitchen. Long, shoulder length, hair shall be restrained; (7-1-99)T

b. Assure that all persons keep their hands clean at all times while engaged in preparing and serving food and drink. Hands shall be rewashed each time the person returns to the kitchen from other activities in the facility; and (7-1-99)T

c. Assure that no person having a communicable disease in the transmittable stage or who is suspected of being a carrier of organisms that may cause a communicable disease shall not be involved in food preparation and service. (7-1-99)T

02. Policies Of Nutritional Care. Facilities with a licensed bed capacity of sixteen (16) or more residents shall have written policies and procedures for providing proper nutritional care of its residents whether provided by the facility or a third party. Policies shall include at least the following: (7-1-99)T

a. Job descriptions; (7-1-99)T

b. Personnel responsibilities; (7-1-99)T

c. Procedures to follow if a resident refuses food; and (7-1-99)T

d. Food handling and sanitation procedures. (7-1-99)T

451. MENU PLANNING.

Residents' shall be provided at least the minimum food and nutritional needs of the residents in accordance with the current Recommended Dietary Allowances established by the Food and Nutrition Board of the National Research Council, adjusted for age, sex and activity. (7-1-99)T

01. Additional Menu Items. Items on the menu shall: (7-1-99)T

a. Include foods commonly served within the community and to which the residents are accustomed; (7-1-99)T

b. Reflect seasonal food selections as well as residents' food habits, preferences, and physical abilities; (7-1-99)T

c. Provide a sufficient variety of foods in adequate amounts at each meal; (7-1-99)T

d. Be varied for each day of the week, different for the same days from week to week; and (7-1-99)T

e. Not include restrictions of any kind based on dietary beliefs or practices of the owner and administrator unless the facility's admission policies clearly indicate. (7-1-99)T

- 02. Menus Must:** (7-1-99)T
- a. Be reviewed, signed and dated by a dietitian, nutritionist or home economist ensuring that the menus meet the current RDAs before being implemented; (7-1-99)T
 - b. Be available where they can be easily viewed by residents upon request; (7-1-99)T
 - c. Be corrected to reflect substitutions that were made and snacks provided; and (7-1-99)T
 - d. Be kept on file in the facility for three (3) months. (7-1-99)T
 - e. Facilities of sixteen (16) residents or more shall have available in the kitchen a current diet manual approved by the licensing agency. A facility using a diet manual other than the Idaho Diet Manual shall be submitted to the licensing agency for approval.

03. Facilities With Fifteen Beds Or Less. In facilities of fifteen (15) beds or less, menus shall be planned, in writing at least three (3) weeks in advance for regular diets. (7-1-99)T

04. More Than Sixteen Beds. Facilities serving sixteen (16) or more residents shall develop and implement a cycle menu which covers a minimum of two (2) seasons and is six (6) to nine (9) weeks in length. (7-1-99)T

452. MODIFIED OR THERAPEUTIC DIETS.

Modified or Therapeutic Diets. When therapeutic diet services are provided, the facility shall meet the following. (7-1-99)T

- 01. Modified Or Therapeutic Diet.** Have on file, a physician's order for each modified or therapeutic diet; (7-1-99)T
- 02. Planned Or Approved Menu.** Have a menu planned or approved, signed and dated by a dietitian prior to being served, which meets the nutritional standards to the extent possible; (7-1-99)T
- 03. Regular Diet Menu.** The menu shall be planned as close to the regular diet as possible; (7-1-99)T
- 04. Types And Amounts Of Food To Be Served.** Have readily available, in the kitchen, the meal pattern, including types and amounts of food to be served; (7-1-99)T
- 05. Serve The Menu As Planned;** and (7-1-99)T
- 06. Keep The Therapeutic Menus On File For Three Months.** (7-1-99)T

453. FOOD STORAGE.

01. Food Storage Temperature. All potentially hazardous foods and beverages shall be kept at a safe temperature, forty-five (45) degrees Fahrenheit or below and at one hundred forty (140) degrees Fahrenheit or above, except during necessary periods of preparation and service. (7-1-99)T

02. Frozen Food Storage Temperatures. Frozen foods shall be maintained at zero (0) degrees or below except during necessary periods of preparation and service. (7-1-99)T

03. Refrigerator And Freezer Temperature. Each refrigerator and freezer used for storage of perishable food shall be provided with an accurate thermometer located in the warmest part toward the side front of the refrigerator and where the temperature can be easily and readily observed. (7-1-99)T

04. Thawing Of Frozen Food. Frozen foods which are potentially hazardous if not properly handled shall be thawed for preparation in one (1) of the following ways: (7-1-99)T

- a. In refrigerated units at a temperature not exceeding forty-five (45) degrees Fahrenheit; (7-1-99)T
 - b. Under potable running water, at a temperature of seventy (70) degrees Fahrenheit or below, with sufficient water velocity to agitate and float off loose particles into the overflow; (7-1-99)T
 - c. In a microwave oven; or (7-1-99)T
 - d. As part of a conventional cooking process. (7-1-99)T
- 05. Safe Food.** Food received or used in facility shall be clean, wholesome, free from spoilage, adulteration, misbranding, and safe for human consumption. Outdated products shall not be used. (7-1-99)T
- 06. Food Storage.** Stored food shall be placed in such a manner as to be kept from dust and splash contamination. All food shall be stored off the floor. (7-1-99)T
- 07. Canned Food.** Food contained in rusted, dented, or unlabeled cans shall not be used. (7-1-99)T
- 08. Food Supply.** The facility shall maintain a seven (7) day supply of nonperishable foods and a two (2) day supply of perishable foods. (7-1-99)T

454. FOOD PREPARATION AND SERVICE.

- 01. Food Preparation.** Foods shall be prepared by methods that conserve nutritional value, flavor, and appearance. (7-1-99)T
- 02. Raw Unprocessed Food.** Raw unprocessed food, fruits, or vegetables shall be thoroughly washed before use. (7-1-99)T
- 03. Home Canned Foods.** Home canned foods shall not be served except home canned jams, jellies, fruits, pickles, and preserves. (7-1-99)T
- 04. Dry Milk Products.** Reconstituted dry milk and dry milk products; i.e., whey, may be used only in instant desserts, whipped products, or for cooking and baking purposes. (7-1-99)T
- 05. Meal Spacing.** Not more than fourteen (14) hours shall elapse between the end of an evening meal and the beginning of the following morning meal containing a protein food. (7-1-99)T
- 06. Meal Intervals.** Intervals between breakfast and lunch and lunch and dinner shall not be less than four (4) hours nor more than six (6) hours between each. (7-1-99)T
- 07. Main Meal.** If the main meal of the day is served at noon, the evening meal shall include at least one (1) ounce of a protein food (meat, cheese, fish, or egg), vegetable, fruit or dessert, and beverage preferably milk. (7-1-99)T
- 08. Temperature Of Served Food.** Foods shall be attractively served at proper temperatures. (7-1-99)T
- 09. Form Of Food Served.** Foods shall be served in a form to meet individual resident's needs. (7-1-99)T
- 10. Boxed Lunch And Dinner Meal.** If residents carry lunches, box or sack, at noon, the main meal shall be served in the evening. (7-1-99)T
- 11. Box Lunch Nutrition.** A box lunch shall be nutritionally adequate and varied. (7-1-99)T

12. Standardized Recipes. For facilities serving sixteen (16) or more individuals, standardized recipes shall be required. (7-1-99)T

455. FOOD SERVICE SANITATION STANDARDS.

01. Pots And Pans. Pots and pans shall be adequate in number and shall be maintained in a smooth, nonpitted, easily cleanable condition. (7-1-99)T

02. Cups, Dishes, and Utensils. Cups, dishes, and eating utensils that are stained, pitted, chipped, unglazed, or not easily cleanable shall not be used. (7-1-99)T

03. Food Service Walls. The walls of all food preparation, utensil washing, and hand washing rooms or areas shall have smooth, easily cleanable surfaces and shall be washable up to the highest level by splash or spray. (7-1-99)T

04. Water. Hot and cold running water under pressure shall be easily accessible to all rooms where food is prepared or utensils are washed. (7-1-99)T

05. Live Animals. No live animals or fowl shall be kept or maintained in the food service area. (7-1-99)T

06. Living Quarters. Neither food preparation, nor service areas, shall be used as living quarters for facility personnel. (7-1-99)T

07. Garbage, Trash, And Rubbish. All garbage, trash, and rubbish shall be collected and disposed of in a sanitary manner. (7-1-99)T

a. All garbage, trash, and rubbish shall be collected daily and taken to storage facilities; (7-1-99)T

b. Garbage shall be removed from storage facilities frequently enough to prevent a potential health hazard; (7-1-99)T

c. Wet garbage shall be collected and stored in impermeable, leak proof, fly tight containers pending disposal; and (7-1-99)T

d. All containers, storage areas, and surrounding premises shall be kept clean and free of vermin. (7-1-99)T

08. UNICODE. The acquisition, preparation, including freezing, canning, storage and serving of all food and drink and the washing of dishes in a facility shall comply with IDAPA 16.02.19, "Rules Governing Food Safety and Sanitation Standards for Food Establishments (UNICODE)," February 1, 1998, which is incorporated herein by reference and outlined in Section 008. (7-1-99)T

456. -- 474. (RESERVED).

475. ENVIRONMENTAL SANITATION STANDARDS.

01. Responsibility For Maintenance Of Sanitary Conditions. The facility is responsible for the prevention of disease and for the maintenance of sanitary conditions. (7-1-99)T

02. Water Supply. The water supply for the facility shall be adequate, of a safe, and sanitary quality, to include, but not be limited to: (7-1-99)T

a. A Department approved private, public, or municipal water supply shall be used; (7-1-99)T

b. If water is from a private supply, water samples shall be submitted to the Department through a

private accredited laboratory or the District Public Health Laboratory for bacteriological examination at least annually or more frequently if deemed necessary by the Department. Copies of the laboratory reports shall be kept on file at the facility; and (7-1-99)T

c. There shall be a sufficient amount of water under adequate pressure to meet the sanitary requirements of the facility at all times. (7-1-99)T

03. Sewage Disposal. All sewage and liquid wastes shall be discharged, collected, treated, and disposed of in a manner approved by the Department. (7-1-99)T

04. Garbage And Refuse Disposal. Garbage and refuse disposal shall be provided by the facility. The disposal method, shall include, but not be limited to: (7-1-99)T

a. Garbage containers both inside and outside the facility, used for storage of garbage and refuse, shall be constructed of durable, non-absorbent materials and shall not leak; (7-1-99)T

b. Garbage containers in common areas both inside and outside the facility, used for storage of garbage and refuse, shall be provided with tight-fitting lids; (7-1-99)T

c. Garbage containers shall be maintained in good repair; (7-1-99)T

d. Sufficient garbage containers shall be afforded to hold all garbage and refuse which accumulates between periods of removal from the premises of the facility; and (7-1-99)T

e. Storage areas shall be kept clean and sanitary. (7-1-99)T

f. If public or contract garbage collection service is available, the facility shall subscribe to these services. (7-1-99)T

05. Insect And Rodent Control. The facility shall be maintained free from infestations of insects, rodents, and other pests. Toxic chemicals and pesticides used in the control program shall be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer. Toxic chemicals and pesticides shall be: (7-1-99)T

a. Properly labeled; and (7-1-99)T

b. Stored in an area separate from where food is stored, prepared, and served or where medications are stored; and, (7-1-99)T

c. Not stored in resident areas. (7-1-99)T

06. Linen-Laundry Facilities And Services. Adequate facilities and procedures shall be provided for the proper and sanitary washing of linen and other washable goods laundered at the facility. The linen-laundry facility shall: (7-1-99)T

a. Have available at all times a quantity of linen essential to the proper care and comfort of residents. Two (2) complete changes of clean bed linen shall be on hand for each licensed bed in the facility. The use of torn or unclean bed linen is prohibited; (7-1-99)T

b. Be well-lighted and have ventilation adequate in size for the needs of the facility, maintained in a sanitary manner, and kept in good repair; and (7-1-99)T

c. If linen and personal laundry are sent out, care shall be taken that soiled linen and clothing are properly handled before sending out, and that clean linen and clothing are received and stored in the proper manner. (7-1-99)T

07. Soiled Linen Handling. Soiled linen shall be handled as follows: (7-1-99)T

- a. All soiled linen shall be collected, stored, and transported in a sanitary manner; (7-1-99)T
- b. Soiled linen shall not be sorted, processed, or stored in kitchens, food preparation areas, or food storage areas; and (7-1-99)T
- c. Soiled linen shall not be allowed to accumulate at the facility. (7-1-99)T
- 08. Clean Linen Handling.** Clean linen shall be handled as follows: (7-1-99)T
 - a. Clean linen shall be handled, stored, dried, and sorted in a sanitary manner; (7-1-99)T
 - b. Closets for the storage of clean linen shall be provided on each floor and in each building where residents sleep; and (7-1-99)T
 - c. Residents' and personnel laundry shall be collected, transported, sorted, washed, and dried in a sanitary manner and shall not be washed with bed linens. (7-1-99)T
- 09. Labeled Clothing.** Residents' clothing laundered by the facility shall be labeled to ensure proper return to the owner only if likely to be commingled. (7-1-99)T
- 10. Housekeeping Services And Equipment.** Sufficient housekeeping, maintenance personnel, and equipment shall be provided to maintain the interior and exterior of the facility in a clean, safe, and orderly manner. Prior to occupancy of any sleeping room by a new resident, the room shall be thoroughly cleaned including the bed, bedding, and furnishings. (7-1-99)T

476. -- 499. (RESERVED).

500. REQUIREMENTS FOR FIRE AND LIFE SAFETY STANDARDS.

- 01. Local And State Codes.** Buildings on the premises used as a facility must meet all requirements of local and state codes concerning fire and life safety that are applicable to licensed residential and assisted living facilities. (7-1-99)T
- 02. Life Safety Code Requirements.** Licensed residential and assisted living facilities shall meet the provisions of the Life Safety Code of the National Fire Protection Association, 1988 Edition, which are applicable to residential and assisted living facilities as specified below and outlined in Section 008. (7-1-99)T
- 03. Existing Facilities Housing Nine Or Less Residents.** Existing facilities licensed prior to July 1, 1992, and housing nine (9) or less residents on the first story only shall comply with the requirements of Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition for Prompt Evacuation Capability except that the requirement for door closures on sleeping room doors shall not apply. Facilities may elect to comply with the fire safety evaluation system for Residential Board and Care, Prompt Evacuation Capability as outlined in Chapter 6 of NFPA Manual 101M, 1988 Edition which is incorporated by reference and outlined in Section 008. (7-1-99)T
- 04. New Buildings.** Newly constructed buildings or buildings being converted to a facility, or both, after July 1, 1992, and who house nine (9) or less residents on the first story only shall comply with the requirements of Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition for Impractical Evacuation Capability. Exceptions: (7-1-99)T
 - a. Any newly constructed building or building being converted to a facility and who house only residents classified as Level I or Level II need only comply with the requirements for Prompt Evacuation Capability as outlined in Subsection 500.03; (7-1-99)T
 - b. In any newly constructed building or building being converted to a facility, the minimum water supply for residential sprinkler systems shall be equal to the water demand rate times ten (10) minutes; and (7-1-99)T

c. A facility may elect to comply with the Fire Safety Evaluation System (FSES) for Residential Board and Care, Impractical Evacuation Capability, as outlined in Chapter 6 of NFPA Manual 101M, 1988 Edition which is incorporated by reference and outlined in Section 008. (7-1-99)T

05. Facilities Housing Ten Through Fifteen Residents. Buildings housing ten (10) through fifteen (15) residents on the first story only shall comply with the requirements of either: (7-1-99)T

a. The Limited Care Section of the Life Safety Code, 1988 Edition; (7-1-99)T

b. Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition, for Impractical Evacuation Capability and have a Department approved resident safety plan which includes staffing. A facility may elect to comply with the Fire Safety Evaluation System (FSES) for Residential Board and Care, Impractical Evacuation Capability, as outlined in Chapter 6 of NFPA Manual 101M, 1988 Edition which is incorporated by reference and outlined in Section 008; or (7-1-99)T

c. The minimum water supply for the residential sprinkler system shall be equal to the water demand rate times ten (10) minutes. (7-1-99)T

06. Housing Of Sixteen Or More Residents. Buildings housing sixteen (16) or more residents or any building housing residents on stories other than the first story shall comply with the Limited Care Section of the Life Safety Code, 1988 Edition. Exception: Facilities licensed prior to July 1, 1992, may continue to comply with the Residential Custodial Care Section of the Life Safety Code, 1981 Edition as outlined in Section 008. Existing licensed facilities shall be in compliance by July 1, 1994. (7-1-99)T

07. Fire Alarm/Smoke Detection System. An electrically supervised, manually operated fire alarm/smoke detection system shall be installed throughout each building housing residents. The system shall include a control panel, manual pull stations, smoke detectors, sounding devices, power backup and any sprinkler flow/alarm devices that may be present and must be compatible with any future sprinkler system add on. The system, including devices, their location, and installation shall be approved by the licensing agency prior to installation. Buildings licensed prior to July 1, 1992, shall be given until July 1, 1995, to install the system. Exception: Facilities that comply with the requirements of Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition for Impractical Evacuation Capability. (7-1-99)T

08. Corridors Or Hallways. Dead-end corridors or dead-end hallways shall not exceed thirty (30) feet in length. (7-1-99)T

09. Resident Placement. Any resident requiring assistance in ambulation shall reside on the first story unless the facility complies with Subsection 500.06. (7-1-99)T

10. Fire Drills. All personnel and residents shall participate in a minimum of one (1) fire drill per shift per quarter. Fire drills shall be unannounced. Written documentation of each drill shall be maintained on file at the facility and shall contain a description of each drill, the date and time of the drill, response of the personnel and residents, problems encountered and recommendations for improvement, and the name of each personnel in attendance during the drill. (7-1-99)T

11. Structure, Maintenance, Equipment To Assure Safety. The facility shall be structurally sound and shall be maintained and equipped to assure the safety of residents, personnel, and the public, to include, but not be limited to: (7-1-99)T

a. Furnishings, decorations, or other objects shall not be placed so as to obstruct exit access or exits; (7-1-99)T

b. All ramps, open porches, sidewalks, and open stairs shall be maintained free of snow and ice buildup; (7-1-99)T

c. Wood stoves shall be provided with railings or other protection designed to prevent residents from coming into contact with the stove surfaces; (7-1-99)T

- d. All fireplaces shall be provided with heat tempered glass fireplace enclosures or equivalent; (7-1-99)T
- e. Boilers, hot water heaters, and unfired pressure vessels shall be equipped with automatic pressure relief valves; (7-1-99)T
- f. Portable comfort heating devices of any kind shall be prohibited; and
- g. Quantities of flammable and highly combustible materials deemed hazardous by the licensing agency shall not be stored in the facility unless the building is protected throughout by an approved automatic fire extinguishing system. (7-1-99)T
- 12. Natural Or Man-Made Hazards.** On the premises of each facility where natural or man-made hazards are present, suitable fences, guards, railing, or a combination shall be provided to protect the residents. (7-1-99)T
- 13. Weeds, Trash, And Rubbish.** The premises and all buildings used as a facility shall be maintained free from the accumulation of weeds, trash, and rubbish. (7-1-99)T
- 14. Exit Door Locks.** Any locks on exit doors shall be single action easily operable from the inside without the use of keys or any special knowledge. Exception: Special locking arrangements as permitted under Section 5-2.1.6. of the Life Safety Code, 1988 Edition which is incorporated by reference as outlined in Section 008. (7-1-99)T
- 15. Portable Fire Extinguishers.** Portable fire extinguishers shall be installed throughout each building utilized as a facility. Each extinguisher shall be installed in accordance with requirements set forth in NFPA Standard #10, Standard for Portable Fire Extinguishers, 1988 Edition which is incorporated by reference as outlined in Section 008. (7-1-99)T
- 16. Electrical Installations And Equipment.** Electrical installations and equipment shall comply with applicable local or state electrical requirements to include but not be limited to the following: (7-1-99)T
- a. Equipment designed to be grounded shall be maintained in a grounded condition; and (7-1-99)T
- b. Extension cords and multiple electrical adapters shall be prohibited. Exception: Listed grounded multiple electrical adapters with built-in breaker. (7-1-99)T
- 17. Solid Fuel Heating Devices.** Solid fuel heating devices shall be installed in accordance with NFPA Standards #211, Standards for Chimneys, Fireplaces, Vents, and Solid Burning Appliances, 1988 Edition which is incorporated by reference and is outlined in Section 008. (7-1-99)T
- 18. Medical Gases.** Medical gas storage, handling, and use shall be in accordance with NFPA Standard 99, Standards for Health Care Facilities, 1990 Edition which is incorporated by reference and is outlined in Section 008. (7-1-99)T
- 19. Telephone.** There shall be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers shall be posted near the telephone. (7-1-99)T
- 20. Smoking.** The facility shall develop written rules governing smoking; and, these rules shall be adopted, posted, and made known to all facility personnel, residents, and the public. These rules shall include at least the following: (7-1-99)T
- a. Prohibiting smoking in any area where flammable liquids, gases, or oxidizers are in use or stored; (7-1-99)T
- b. Prohibiting residents from smoking in bed; (7-1-99)T

- c. Prohibiting unsupervised smoking by residents classified as not mentally or physically responsible. This includes residents so affected by medication; (7-1-99)T
- d. Prohibiting smoking in areas where combustible supplies or materials are stored; (7-1-99)T
- e. Designating areas for personnel, resident, and public smoking; and (7-1-99)T
- f. Nothing in this section requires that smoking be permitted in a facility whose admission policies prohibit smoking. (7-1-99)T

21. Disaster Preparedness. Each facility shall develop and implement a disaster preparedness plan to follow in the event of fire, explosion, flood, earthquake, high wind, or other disaster. The plan shall include, but not be limited to, the following: (7-1-99)T

- a. Written procedures outlining steps to be taken in the event of a fire including who is to respond, each person's responsibilities, to where residents are to be evacuated, and notification of the fire department; (7-1-99)T
- b. Information as to where residents shall be taken in the event the building cannot be immediately reentered. A written agreement shall be developed between the facility and the location to which residents are to be relocated; and (7-1-99)T
- c. Documentation shall be available in each facility indicating that the residents have been advised, upon admission, of actions required under emergency conditions. (7-1-99)T

22. Report Of Fire. A separate report on each fire incident occurring within the facility shall be submitted to the Department within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report," shall be issued by the Department to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any. (7-1-99)T

501. MAINTENANCE OF EQUIPMENT AND SYSTEMS FOR FIRE AND LIFE SAFETY.

01. Maintenance Of Equipment And Systems. The facility shall assure that all equipment and systems are properly maintained to assure the safety of the residents. (7-1-99)T

02. Fuel-Fired Heating. Fuel-fired heating devices and systems, including wood stoves, shall be inspected/serviced/cleaned at least annually by a person professionally engaged in the business of servicing these devices or systems. The inspection record shall be maintained on file in the facility. (7-1-99)T

03. Portable Fire Extinguishers. Portable fire extinguishers shall be serviced in accordance with NFPA Standard 10, Standard for Portable Fire Extinguishers, 1988 Edition. In addition, portable fire extinguishers shall be examined at least monthly by a designated person in the facility to determine that: (7-1-99)T

- a. Each extinguisher is in its designated location; (7-1-99)T
- b. Each extinguisher seal or tamper indicator is not broken; (7-1-99)T
- c. Each extinguisher has not been physically damaged; (7-1-99)T
- d. Each extinguisher gauge, if provided, shows a charged condition; and (7-1-99)T
- e. The inspection tag attached to the extinguisher shall show at least the initials of the person making the monthly examination and the date of the examination. (7-1-99)T

04. Fire Alarm/Smoke Detection System Service/Testing. (7-1-99)T

a. The facility's fire alarm/smoke detection system shall be inspected/tested/serviced at least annually by a person or business professionally engaged in the servicing of such systems. Results of the inspection/test shall be maintained on file; and (7-1-99)T

b. The fire alarm/smoke detection system shall be inspected/tested at least monthly by a designated facility employee. Results of the inspection/test shall be maintained on file. (7-1-99)T

05. Automatic Fire Extinguishing System - Inspection. All automatic fire extinguishing systems shall be inspected/tested/serviced at least annually by an appropriate contractor licensed by the Idaho State Fire Marshal's office. A report, prepared by the contractor shall be maintained on file in the facility documenting the results of the annual inspection/testing/service. (7-1-99)T

502. -- 524. (RESERVED).

525. BUILDING CONSTRUCTION AND PHYSICAL STANDARDS.

01. Building Character. All buildings utilized as licensed residential and assisted living facilities shall be of such character as to be suitable for such use. Facilities shall be of such character as to enhance normalization and integration of residents into the community. (7-1-99)T

02. Remodeling Or Additions. Remodeling or additions to facilities shall be consistent with and not detract from the residential use of the property. Remodeling which identifies the facility such as remodeling garages when this is not the general practice in the neighborhood or constructing large buildings which overwhelm the lot on which the facility is located is prohibited. (7-1-99)T

03. Approval. All buildings shall be subject to the approval of the licensing agency. (7-1-99)T

04. Walls And Floor Surfaces. Walls and floors shall be of such character to permit frequent cleaning. Walls and ceilings in kitchens, bathrooms, and utility rooms shall have smooth enameled or equally washable surfaces. (7-1-99)T

05. Toilet And Bathrooms. Each facility shall provide: (7-1-99)T

a. A toilet and bathroom for resident use so arranged that it is not necessary for an individual to pass through another resident's room to reach the toilet or bath; (7-1-99)T

b. Toilet and bathrooms separated from all adjoining rooms by solid walls or partitions; (7-1-99)T

c. Mechanical ventilation to the outside from all inside toilet and bathrooms without operable windows; (7-1-99)T

d. Each tub, shower, and lavatory connected to hot and cold running water; (7-1-99)T

e. At least one (1) flush toilet for every six (6) persons, residents, or personnel; (7-1-99)T

f. At least one (1) tub or shower for every eight (8) persons, residents, or personnel; (7-1-99)T

g. At least one (1) lavatory with a mirror for each toilet; and (7-1-99)T

h. At least one (1) toilet, tub or shower, and lavatory in each building in which residents sleep, with additional units if required by the number of persons. Residents shall not be required to go outside to get to the toilet, tub or shower, or lavatory. (7-1-99)T

06. Accessibility For Persons With Mobility And Sensory Impairments. For residents with mobility or sensory impairments, the facility shall provide a physical environment which meets the needs of the person for independent mobility and use of appliances, bathroom facilities, and living areas. New construction must meet the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Existing facilities shall

comply, to the maximum extent feasible with Title III-4.4000 of the Americans with Disabilities Act, without creating an undue hardship or burden on the facility, and shall provide as required, the necessary accommodations: (7-1-99)T

a. Ramps for residents who require assistance with ambulation shall comply with the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.8; (7-1-99)T

b. Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.13; (7-1-99)T

c. Grab bars in resident toilet and bathrooms that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.26; (7-1-99)T

d. Toilet facilities that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.16 and 4.23; (7-1-99)T

e. Non retractable faucet handles that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.19 (with the exception of self-closing valves under 4.19.5) and 4.27; and (7-1-99)T

f. Suitable hand railing shall be provided on both sides of all stairs leading into and out of a building for residents who require the use of crutches, walkers, or braces. (7-1-99)T

07. Lighting. The facility shall provide adequate lighting in all resident sleeping rooms, dining rooms, living rooms, recreation rooms, and hallways. (7-1-99)T

08. Ventilation. The facility shall be ventilated, and precautions shall be taken to prevent offensive odors. (7-1-99)T

09. Plumbing. All plumbing in the facility shall comply with local and state codes. All plumbing fixtures shall be easily cleanable and maintained in good repair. (7-1-99)T

10. Heating. A heating system shall be provided for the facility that is capable of maintaining a minimum temperature of seventy (70) degrees Fahrenheit during the day and a minimum of sixty-two (62) degrees Fahrenheit during the night. Wood stoves shall not be permitted as the sole source of heat and the thermostat for the primary source of heat shall be remotely located away from any wood stove. (7-1-99)T

11. Dining/Recreation/Living Space. For facilities licensed after July 1, 1991, the total area set aside for these purposes shall be not less than thirty (30) square feet per resident. A hall or entry shall not be included as living or recreation space. (7-1-99)T

12. Residents Required To Go Outside. Residents requiring the use of wheelchairs, walkers, or assistance with ambulation shall not be admitted to facilities that require residents to go outside to go back and forth from the dining room/shower/bath/recreation areas.

13. Covered Cement Walks. For facilities licensed after July 1, 1991, where residents are required to leave their rooms to go to dining or recreation, covered cement walks are required. (7-1-99)T

14. Resident Sleeping Rooms. The facility shall assure that: (7-1-99)T

a. Each resident sleeping room is not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; (7-1-99)T

b. A room with a window that opens into an exterior window well shall not be used for a resident sleeping room; (7-1-99)T

c. Not more than four (4) residents shall be housed in any multi-bed sleeping room in facilities licensed prior to July 1, 1991. New facilities or conversions licensed after July 1, 1992, shall not have more than two (2) residents in any multi-bed sleeping room. The sale of a facility licensed prior to July 1, 1992, shall not be

considered a new facility or conversion; (7-1-99)T

d. Square footage requirements for existing facilities that have been continuously licensed since before May 9, 1977, shall provide sleeping rooms which allow for not less than seventy-five (75) square feet of floor space per resident in a single-bed sleeping room and not less than sixty (60) square feet of floor space per resident in a multi-bed sleeping room with a minimum of three (3) feet between beds; (7-1-99)T

e. Square footage requirements for facilities licensed on or after May 9, 1977, shall provide sleeping rooms which allow for not less than one-hundred (100) square feet of floor space per resident in a single-bed sleeping room and not less than eighty (80) square feet of floor space per resident in a multi-bed sleeping room; (7-1-99)T

f. Each resident's sleeping room shall be provided with an operable window. The window opening shall be not less than twenty-two (22) inches wide, twenty-four (24) inches in height, and five and seven-tenths (5.7) square feet in area. Exception: This is not necessary if there is a door to the outside; (7-1-99)T

g. The operable window sill height shall not exceed thirty-six (36) inches above the floor in new construction, additions, or remodeling; (7-1-99)T

h. The operable window sill height shall not exceed forty-four (44) inches above the floor in existing buildings being converted to a facility; (7-1-99)T

i. Each resident sleeping room shall provide a total window space that equals at least ten percent (10%) of the room's total square footage; (7-1-99)T

j. Window screens shall be provided on operable windows; (7-1-99)T

k. Resident sleeping rooms shall be provided with walls that run from floor to ceiling and with doors that will stop the passage of smoke and provide the resident with adequate privacy; (7-1-99)T

l. Ceiling heights in sleeping rooms shall be at least seven (7) feet, six (6) inches; and (7-1-99)T

m. Closet space in each resident sleeping room shall be provided at the rate of at least four (4) square feet per resident. Common closets utilized by two (2) or more residents shall be provided with substantial dividers for separation of each resident's clothing. All closets shall be equipped with doors. Free-standing closets shall be deducted from the square footage of the sleeping room. (7-1-99)T

15. Storage Areas. In addition to the storage area in the resident's room, general storage shall be provided at the rate of ten (10) square feet per licensed bed. (7-1-99)T

16. Intercom System. An intercom system shall be installed in the facility based upon the design of the building, needs of the residents, or staffing pattern. The intercom shall not be a substitute for supervision. (7-1-99)T

17. Dietary Standards. The facility shall assure that: (7-1-99)T

a. Newly constructed facilities, admitting or planning to admit sixteen (16) or more residents, shall submit professionally prepared drawings or plans of the kitchen for review prior to construction; and (7-1-99)T

b. Carpeting is prohibited in the food preparation area, and where existing, shall be replaced with an easily cleanable surface when worn out or becomes heavily soiled. (7-1-99)T

526. REQUIREMENTS FOR EXISTING BUILDINGS TO BE CONVERTED TO A FACILITY.

In addition to requirements set forth in Section 525, buildings to be converted to facilities shall comply with the following: (7-1-99)T

01. Site. The building/home location shall be: (7-1-99)T

a. In a lawfully constituted fire district; and (7-1-99)T

- b. Served by an all-weather road kept open to motor vehicles at all times of the year; and (7-1-99)T
- c. Accessible to physician or emergency medical services within thirty (30) minutes driving time; and (7-1-99)T
- d. Accessible within thirty (30) minutes driving time to necessary social, medical, and rehabilitation services. (7-1-99)T

02. Occupancy Approval. Any building proposed for conversion to a facility shall be approved by the licensing agency prior to issuance of a license. Any items of noncompliance shall be corrected prior to issuance of the license. (7-1-99)T

03. Use Of Modular (i.e., Factory Built) Buildings And Manufactured Homes. Modular Buildings as defined in Section 39-4105, Idaho Code, must conform to the requirements of the Uniform Building Code unless approved for use as a facility prior to July 1, 1999, and may continue to be licensed when evaluated on a case-by-case basis for fire and life safety issues. Manufactured Homes as defined in Section 39-4105, Idaho Code, shall not be used. (7-1-99)T

527. NEW CONSTRUCTION, ADDITIONS, ALTERATIONS.

01. Construction. Facilities whose construction commenced after July 1, 1991, or buildings being converted to a facility after July 1, 1991, shall conform to the requirements of the Life Safety Code, 1988 Edition, Chapter 12, for a Limited Care Facility. Exception: A building housing fifteen (15) beds or less where all sleeping rooms are located on the first story, may comply with the requirements of the Life Safety Code, 1988 Edition, Chapter 21, Residential Board and Care which is incorporated by reference and is outlined in Section 008. See Section 500. (7-1-99)T

02. Plans And Specifications. Plans and specifications on any new facility or any addition/remodeling are governed by the following: (7-1-99)T

- a. Plans shall be prepared by an architect or engineer licensed in the state of Idaho. A variance of this requirement may be granted by the licensing agency when the size of the project does not necessitate involvement of an architect or engineer; (7-1-99)T
- b. Prior to commencing work, plans and specifications shall be submitted to, and approved by, the licensing agency to assure compliance with applicable construction standards, codes, and regulations; (7-1-99)T
- c. Preliminary plans, to be submitted, shall include the assignment of all spaces, size of areas and rooms; (7-1-99)T
- d. Preliminary plans, to be submitted, shall include drawings of each floor including, but not limited to, the basement, approach or site plan, roads, parking areas, and sidewalks; (7-1-99)T
- e. Preliminary plans, to be submitted, shall include outline specifications describing the general construction, including interior finishes, acoustical material, heating, electrical, and ventilation systems; (7-1-99)T
- f. Preliminary plans, to be submitted, shall be drawn to scale of sufficient size to clearly present the proposed design, but not less than a scale of one-eighth (1/8) inch to the foot; (7-1-99)T
- g. Working drawings shall be developed in close cooperation and with approval of the licensing agency and other appropriate agencies prior to construction; (7-1-99)T
- h. Working drawings shall be of accurate dimensions and shall include all necessary explanatory notes, schedules, and legends. The drawings shall be stamped/signed by the architect or engineer; and (7-1-99)T

- i. Working drawings shall be complete and adequate for contract purposes.

528. -- 549. (RESERVED).

550. REQUIREMENTS FOR FURNISHING, EQUIPMENT, AND SUPPLIES.

Furnishing, Equipment, and Supplies. Each facility shall provide:

(7-1-99)T

- 01. Living Room Furnishings.** Reading lamps, tables, and comfortable chairs or sofas in living rooms.
(7-1-99)T

- 02. Resident Sleeping Room Furnishings.** Comfortable furnishings and individual storage for personal items for each resident in each sleeping room.
(7-1-99)T

- 03. Resident Bed.** Each resident with his own bed, which shall be at least thirty-six (36) inches wide, substantially constructed, and in good repair. Roll-away beds, cots, folding beds, or double bunks shall be prohibited. Each bed shall be provided with springs which are in good repair, a clean and comfortable mattress which is standard for the bed, and a pillow.
(7-1-99)T

- 04. Drinking Glasses.** Clean drinking glasses for resident use. Common drinking glasses shall be prohibited.
(7-1-99)T

- 05. Resident Telephone Privacy.** A telephone in the facility which is accessible to all residents. The telephone shall be situated in such a manner so as to provide the resident adequate privacy while using the telephone.
(7-1-99)T

- 06. Basic Services And Supplies.** Room, board, activities of daily living services, supervision, assistance and monitoring of medications, linen, towels, wash cloths, soap, shampoo, comb, hairbrush, toilet paper, sanitary napkins, first aid supplies, electric razors or other means of shaving, toothbrush, toothpaste, laundering of linens owned by the facility, emergency transportation, housekeeping services, maintenance, utilities, and basic T.V. in common areas shall be included in the basic room and board charges and must be available at no extra charge.
(7-1-99)T

551. -- 673. (RESERVED).

674. MENTAL HEALTH CONTRACT BEDS.

Facilities may enter into agreements with the Department to provide short-term care to certain residents designated by the mental health program of the Department. These residents are temporarily distressed and unable to fully meet their basic needs. They require strong support, supervision, and while nonviolent or a danger to self or others, could regress without these supports. The following conditions must be met by the facility:
(7-1-99)T

- 01. License And Personnel.** The facility is on a full license and is staffed with at least one (1) staff member up and awake at night to assure the safety of all residents.
(7-1-99)T

- 02. Written Contract.** The facility has a written contract with the Department outlining the responsibilities of both parties and lists the names and telephone numbers of individuals who may be contacted if questions arise regarding the residents' care.
(7-1-99)T

- 03. Resident Assessment.** The facility has on file the results of an assessment which clearly assures that the resident is not a danger to himself or others.
(7-1-99)T

- 04. Personnel Orientation And Training.** Personnel providing direct resident care shall have documented evidence on file at the facility of appropriate orientation and training in providing care for residents in the mental health program.
(7-1-99)T

675. HOURLY ADULT CARE.

- 01. Policies.** Policies governing the acceptance of individuals to the hourly adult care program shall be

developed and implemented and shall provide at least the following: (7-1-99)T

- a. Types of individuals who may not be accepted; (7-1-99)T
- b. Health and other pertinent information regarding the individual's needs; (7-1-99)T
- c. Emergency telephone numbers for contact with family members or physician and other identification information; and (7-1-99)T
- d. Written policies shall be available to participants, families and general public. (7-1-99)T

02. Hourly Adult Care Operation. Policies shall be developed and implemented governing the operation of the hourly adult care program and shall include at least the following: (7-1-99)T

- a. Time periods of program not to exceed fourteen (14) consecutive hours in a twenty-four (24) hour period; (7-1-99)T
- b. Cost of program to resident; (7-1-99)T
- c. A description of services offered, including, but not limited to meals, activities, transportation services, if offered, and supervision; and (7-1-99)T
- d. Records required. (7-1-99)T

03. Medications. (7-1-99)T

- a. The facility shall not admit residents to the hourly adult care program who cannot administer their own medications. See Subsection 010.47; (7-1-99)T
- b. Each hourly adult care resident shall be responsible for bringing his own supply of medications for the stay; and (7-1-99)T
- c. The facility shall be responsible for the safeguarding of the hourly adult care resident's medications while he is at the facility. (7-1-99)T

04. Records. (7-1-99)T

- a. The facility shall maintain a record for each hourly adult care resident which includes at least admission identification information including responsible party and physician; (7-1-99)T
- b. The facility shall maintain a record for each hourly adult care resident which includes at least pertinent health and social information relevant to the supervision of the resident; (7-1-99)T
- c. A log of hourly adult care participants shall be maintained for at least the previous year. (7-1-99)T

05. Restrictions. (7-1-99)T

- a. Hourly adult care services may be provided to such number of individuals that the facility can handle without interference with the normal activities of the facility; (7-1-99)T
- b. Provision of time appropriate accommodations shall be made available for the participant, to include, but not be limited to, napping furniture for day time hours, 6 a.m. through 10 p.m., such as lounge chairs, recliners, and couches; (7-1-99)T
- c. The facility shall have the ability to space napping furniture at least three (3) feet apart if needed or requested; (7-1-99)T

d. Beds and bedrooms shall be available for the sleeping hours when needed by the hourly adult care resident. This bed will not be counted as a licensed bed if resident sleeps over; (7-1-99)T

e. Beds, and bedrooms of residents shall not be utilized; and (7-1-99)T

f. No individual shall be admitted to the hourly adult care program who requires skilled nursing or intermediate care or for whom the facility cannot adequately provide services and supervision. (7-1-99)T

676. -- 699. (RESERVED).

700. SPECIALIZED CARE UNITS/FACILITIES FOR ALZHEIMER/DEMENTIA RESIDENTS.

The facility or unit caring for Alzheimer/Dementia residents shall meet the requirements of Rules For Licensed Residential and Assisted Living Facilities In Idaho, Sections 000 through Section 699 and Sections 900 through 999. (7-1-99)T

01. Type Of Facility Required To Meet Specialized Requirements. All facilities, who have a Level III resident with a diagnosis of Alzheimer or an equivalent dementing illness shall meet the requirements for the Specialized Care Units/Facilities For Alzheimer/Dementia Residents, Section 700. (7-1-99)T

02. Policy. Specialized residential care and assisted living units/facilities are specifically designed, dedicated, and operated to provide the individual with chronic confusion, or dementing illness, or both, with the maximum potential to reside in a secure residential environment through the provision of a supervised life-style which is safe, structured but flexible, stress free, and encourages physical activity through a well developed activity and recreational program. The program constantly strives to enable residents to maintain the highest practicable physical, mental or psychosocial well-being. (7-1-99)T

03. Services. Habilitation services, activity program, and behavior management shall be provided to meet the needs of the resident according to their individualized negotiated service agreement. (7-1-99)T

04. Additional Licensure Requirements. A written program of care to be offered by the special care unit/facility shall be developed to include, but not be limited to: (7-1-99)T

a. A description of the resident population to be served; (7-1-99)T

b. A statement of philosophy, objectives, and beliefs upon which decisions will be made regarding the special care unit/facility and the expected results; (7-1-99)T

c. A description of the admission and discharge criteria; (7-1-99)T

d. A description of security systems; (7-1-99)T

e. Policies and procedures developed for the specialized unit/facility; (7-1-99)T

f. A proposed staffing pattern; (7-1-99)T

g. A plan for specialized personnel training; and (7-1-99)T

h. A description of programs for activities and social services. (7-1-99)T

05. Personnel Orientation. Each facility offering specialized care units/facilities for Alzheimer/Dementia residents shall develop an orientation training program, for personnel providing care and supervision to these residents, to include, but not be limited to, the following: (7-1-99)T

a. Alzheimer and Dementia; (7-1-99)T

b. Symptoms and behaviors of memory impaired people; (7-1-99)T

- c. Communication with memory impaired people; (7-1-99)T
- d. The resident's adjustment to residency in the special care unit/facility; (7-1-99)T
- e. Inappropriate and problem behavior of special care unit/facility residents and appropriate personnel interventions; (7-1-99)T
- f. Activities of daily living for special care unit/facility residents; and (7-1-99)T
- g. Stress reduction for special care unit/facility personnel and resident. (7-1-99)T

06. Orientation Training. Personnel shall have at least six (6) additional hours of orientation training prior to providing unsupervised service. (7-1-99)T

07. Continuing Training. An additional two (2) hours of the required eight (8) hours per year of continuing training shall be in the provision of services to resident's with Alzheimer's disease or dementia disorders. (7-1-99)T

08. Admission Policy. Each facility offering special care units/facilities for Alzheimer/Dementias shall develop and implement a written admission policy governing the acceptance of individuals into the unit/facility. The written policy shall include, but not be limited to the following: (7-1-99)T

a. All residents shall be evaluated by their primary physician for the resident's appropriateness for placement into a secure residential environment prior to admission. The facility shall obtain a written statement from the physician stating that the resident is appropriate for admission prior to the resident's admission; (7-1-99)T

b. Clients of the Department shall also have an assessment from the Department, for the resident's appropriateness for placement into a secure residential environment of the special care unit/facility prior to admission. The facility shall obtain from the Department a written statement that the resident is appropriate for admission prior to the resident's admission; (7-1-99)T

c. The facility shall not admit any resident without a written statement from the resident's primary physician for private-pay residents and from the Department for clients of the Department that the resident's degree/stage of confusion/dementia is appropriate for the level of services that the facility is licensed to provide; (7-1-99)T

d. No resident shall be admitted whose safety cannot be assured by the appropriate combination of personnel and facility design. (7-1-99)T

e. Residents shall be at a stage of their disease such that only periodic professional observation and evaluation are required; and (7-1-99)T

f. The facility administrator/personnel shall immediately report to the resident's attending physician for private-pay residents and to the Department for Department clients any sudden or significant change in orientation and behavior, especially wandering, which may indicate the need for a more secure environment. The resident shall be re-evaluated by their primary physician for private-pay residents and by the Department for Department clients for progression of the resident's dementia requiring transfer to a facility with greater supervision and security. (7-1-99)T

09. Medications. (7-1-99)T

a. Psychotropic/behavioral modifying medication intervention shall be used as a last recourse only and at the lowest effective dosage. Prior to the facility obtaining physician orders for psychotropic/behavioral modifying medication, the facility shall implement a less restrictive systematic non medication, behavioral management, approach to assist and redirect the resident to control his behavior. (7-1-99)T

b. The facility shall ensure that physician orders for psychotropic/behavioral modifying medications are ordered for a specific condition as diagnosed and documented in the medical record, at the lowest possible dosage

and for a duration not to exceed a six (6) month period. At the end of the six (6) month period, the need for the medication and the current dosage shall be reassessed by the resident's physician for possible dose reduction and discontinuation of the medication. The facility shall have written documentation, signed and dated by the physician and consultant pharmacist regarding his reassessment and determinations, in the resident's medical record. (7-1-99)T

10. Behavioral Management. The resident with inappropriate behaviors shall be evaluated with appropriate documentation for each incident of inappropriate behavior to determine the following: (7-1-99)T

- a. Baseline to determine the intensity, duration, and frequency of the inappropriate behavior; (7-1-99)T
- b. Study of antecedent behaviors and activities; (7-1-99)T
- c. Identification of recent changes or additional risk factors in the resident's life; (7-1-99)T
- d. Environment factors such as time of day, personnel involved, noise, levels; (7-1-99)T
- e. Medical status; (7-1-99)T
- f. Staffing patterns at times of inappropriate behavior; (7-1-99)T
- g. Alternative, structured activities or behaviors that have been successful or unsuccessful for the resident in the past; and (7-1-99)T
- h. Effectiveness of behavioral management approaches. (7-1-99)T

11. Safety. (7-1-99)T

a. The unit/facility shall have available an outside area or yard that assures the safety of the residents. Areas are to be fenced/walled, gates are to be easily operable to public and personnel, plants are to be non-hazardous for human contact/consumption and adequate personnel will be present. (7-1-99)T

b. Procedures shall be written and implemented, outlining the steps to be taken by personnel when a resident is discovered to be missing from the unit/facility. (7-1-99)T

c. Procedures shall be written and implemented, outlining precautions to be taken when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit/facility. (7-1-99)T

d. Procedures shall be written and implemented, outlining the steps to be taken by personnel when a resident's behavior becomes uncontrollable. (7-1-99)T

701. -- 899. (RESERVED).

900. IMPOSITION OF ENFORCEMENT REMEDIES.

01. Recommendation Of Remedy. In determining which remedy to recommend, the Department shall consider the facility's compliance history, change of ownership, the number of deficiencies, scope and severity of the deficiencies. Subject to these considerations, the Department may impose any of the remedies described in Subsections 150.01.a through 150.01.g. (7-1-99)T

02. Immediate Jeopardy. If the Department finds that the facility's deficiency or deficiencies immediately jeopardize the health or safety of its residents, the Department shall: (7-1-99)T

a. Appoint temporary management and impose one (1) or more of the remaining remedies specified in Subsections 150.01.a. through 150.01.g.; and (7-1-99)T

b. Summarily suspend the facility's license. (7-1-99)T

03. No Immediate Jeopardy. If the licensing agency finds that the facility's deficiency or deficiencies do not immediately jeopardize resident health or safety, the Department may impose one (1) or more of the remedies specified in Subsections 150.01.a. through 150.01.d. and 150.01.f. and 150.01.g. (7-1-99)T

04. Repeated Noncompliance. If the licensing agency makes a determination of repeated noncompliance with respect to a facility the licensing agency may impose any of the remedies listed in Subsections 150.01.a. through 150.01.g. The licensing agency shall monitor the facility on-site on an as needed basis, until the facility has demonstrated to the licensing agency's satisfaction that it is in compliance with all program requirements governing the facility and that it will remain in compliance. (7-1-99)T

05. Failure To Comply. If a facility has not complied with any program requirement within three (3) months of the date the facility is found to have been out of compliance with such requirement, or as stated in the facility accepted plan of correction and the Department has verified, via on-site resurveys, that the facility has made little or no progress in correcting deficiencies then the Department shall institute a revocation action against the facility. (7-1-99)T

901. -- 924. (RESERVED).

925. ENFORCEMENT REMEDY OF BAN ON ALL ADMISSIONS.

The licensing agency shall notify the facility via certified mail banning all admissions to the facility pending satisfactory correction of all deficiencies. Such bans to the facility or to any part thereof shall remain in effect until the licensing agency determines that the facility has achieved full compliance with all program requirements, or until a substitute remedy is imposed. (7-1-99)T

926. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS OF RESIDENTS WITH SPECIFIC DIAGNOSIS.

The licensing agency shall notify the facility via certified mail when banning admission of all residents with a specific diagnosis. Such bans may be imposed for all prospective residents both state and private, and shall prevent the facility from admitting the kinds of resident it has shown an inability to provide adequate care for. (7-1-99)T

927. ENFORCEMENT REMEDY OF CIVIL MONETARY PENALTIES.

01. Civil Monetary Penalties. Civil monetary penalties shall be based upon one (1) or more findings of noncompliance. Actual harm to a resident or residents need not be shown. Nothing shall prevent the Department from imposing this remedy for deficiencies which existed prior to the survey or complaint investigation through which they are identified. A single act, omission or incident shall not give rise to imposition of multiple penalties, even though such act, omission or incident may violate more than one (1) rule. In such cases, the single highest class of deficiency shall be the basis for penalty. Compliance by the facility at a later date shall not result in the reduction of the penalty amount. If the facility appeals the imposition of the civil monetary penalty, they must post a bond equivalent to the amount of the civil monetary penalty. The three (3) classes of deficiencies upon which civil monetary penalties shall be based are as follows: (7-1-99)T

a. Class A: A deficiency or combination of deficiencies which places one (1) or more residents at substantial risk of serious physical or mental harm; (7-1-99)T

b. Class B: A deficiency or combination of deficiencies, other than Class A deficiencies, which have a direct adverse affect on the health, safety, welfare, or rights of residents; (7-1-99)T

c. Class C: A deficiency, or combination of deficiencies other than A or B deficiencies, which are likely to have an adverse affect on the health, safety, welfare, or rights of residents. (7-1-99)T

02. Amount Assessment Of Civil Monetary Penalty. When civil monetary penalties are imposed, such penalties shall be assessed for each day the facility is or was out of compliance. The amounts below shall be multiplied by the total number of beds according to the records of the state licensing agency at the time of the survey. Penalties shall be imposed for each class of deficiencies identified in a survey or complaint investigation. (7-1-99)T

a. Class A Initial Deficiency is eight dollars (\$8); Class A Repeat Deficiency is ten dollars (\$10); Class B Initial Deficiency is five dollars (\$5); Class B Repeat Deficiency is eight dollars (\$8); Class C Initial Deficiency is two dollars (\$2); Class C Repeat Deficiency is four dollars (\$4). (7-1-99)T

b. In any ninety (90) day period, the penalty amounts may not exceed the applicable ceiling as described immediately below. The ceiling, initial, or repeat, shall be determined by the category which has the largest percentage of the deficiencies cited in the survey or complaint investigation; (7-1-99)T

c. Ceiling amounts for facilities of three (3) and four (4) bed size are one thousand four hundred forty dollars (\$1440) for an Initial Deficiency; and two thousand eight hundred eighty dollars (\$2880) for a Repeat Deficiency. For facilities from five to fifty (5-50) bed size the ceiling amounts are three thousand two hundred dollars (\$3200) for an Initial Deficiency; and six thousand four hundred dollars (\$6400) for a Repeat Deficiency. For facilities from fifty one to one-hundred (51-100) bed size the ceiling amount for an Initial Deficiency is five thousand four hundred dollars (\$5400); and ten thousand eight hundred dollars (\$10,800) for a Repeat Deficiency. For facilities from one hundred and one to one hundred and fifty (101-150) bed size the ceiling amount for an Initial Deficiency is eight thousand eight hundred dollars (\$8800); and seventeen thousand six hundred dollars (\$17,600) for a Repeat Deficiency. For facilities from one hundred and fifty one (151) or more the ceiling amount is fourteen thousand six hundred (\$14,600) for an Initial Deficiency; and twenty nine thousand two hundred (\$29,200) for a Repeat Deficiency. (7-1-99)T

03. Imposing Civil Monetary Penalties. Civil monetary penalties shall be imposed as follows: (7-1-99)T

a. Upon its discovery of a deficiency, the licensing agency shall deliver to the Department, within a period, not to exceed thirty (30) calendar days, its recommendation for assessment of a penalty as a result of such deficiency; and (7-1-99)T

b. The penalty shall be assessed by the Director. (7-1-99)T

04. Notice Of Civil Monetary Penalties. The Department shall give written notice to the facility of its imposition of any such penalty within a period not to exceed thirty (30) days of its receipt of a recommendation by the state licensing agency for the assessment of a penalty. The notice shall inform the facility of the amount of the penalty, the basis for its assessment and the facility's appeal rights. (7-1-99)T

05. Payment Of Penalties. Within thirty (30) calendar days from the date the notice is received by the facility, the facility shall pay the full amount of the penalties unless the facility requests administrative review of the decision to assess the penalty or penalties. The amount of a civil monetary penalty determined through administrative review shall be paid within thirty (30) calendar days of the facility's receipt of the administrative review decision unless the facility requests an administrative hearing. The amount of the civil monetary penalty determined through a hearing shall be paid within thirty (30) calendar days of the facility's receipt of the hearing decision unless the facility files a petition for judicial review. Interest shall be assessed and collected on all unpaid penalties at the legal rate of interest for judgments, as set forth herein. Such assessments shall begin one (1) calendar day after: (7-1-99)T

a. The date of the initial assessment of the penalty; or (7-1-99)T

b. If the facility waives its right to a hearing and opts to pay the penalty, the amount of the civil monetary penalty will be reduced by thirty-five percent (35%). (7-1-99)T

c. The date of issuance of the administrative review, administrative hearing or the final judicial review. (7-1-99)T

06. Collection Of Civil Monetary Penalties. If a facility fails or refuses to pay a penalty within the time required, the Department may impose other penalties or institute a revocation action against the facility. Nothing herein shall prohibit the Department from obtaining judicial enforcement of its right to collect penalties and interest thereon. (7-1-99)T

07. Failure To Pay. Failure of a facility to pay the entire penalty, together with interest, as specified in

Subsection 927.05, shall result in an automatic final decision and no further administrative or judicial review or hearing shall be available to the facility. (7-1-99)T

08. Use Of Civil Monetary Penalties. The Department shall use civil monetary penalties' receipts to protect the health and property of the residents including: (7-1-99)T

- a. Maintenance or operation of a facility pending correction of deficiencies or closure; or (7-1-99)T
- b. Paying costs of relocating residents; or (7-1-99)T
- c. Reimbursing residents for personal funds lost which reimbursement shall not adversely affect a person's Medicaid eligibility. (7-1-99)T

928. ENFORCEMENT REMEDY OF TEMPORARY MANAGEMENT.

01. Need For Temporary Management. The Department shall impose the remedy of temporary management in situations where the licensing agency finds that there is a need to oversee operation of the facility and to assure the health and safety of the facility's residents while there is an orderly transfer of residents of the facility to other facilities or while improvements are made in order to bring the facility into compliance with all program requirements. (7-1-99)T

02. Recommendation For Temporary Management. Within five (5) calendar days of its completion of a survey or complaint investigation, the licensing agency shall deliver to the Director its written recommendation for appointment of temporary management if, in the agency's judgment, such appointment is necessary. The recommendation shall provide the basis for the decision, including the assessment of the capability of the facility's current management to achieve and maintain compliance with all rules. (7-1-99)T

03. Appointment Of Temporary Management. The Director shall appoint temporary management. (7-1-99)T

04. Notice Of Temporary Management. The Department shall give written notice to the facility of its appointment of temporary management within seven (7) calendar days of its receipt of a recommendation for appointment from the state licensing agency, unless the Department determines that temporary management is not necessary. When the licensing agency and Department have determined that the facility deficiency or deficiencies immediately jeopardize the health or safety of its residents, no administrative review shall be required prior to appointment of temporary management and the provisions of Section 951 shall apply. (7-1-99)T

05. Who May Serve As Temporary Manager. The Director may appoint any person or organization which meets the following qualifications: (7-1-99)T

- a. The temporary manager shall not have any pecuniary interest in or preexisting fiduciary duty to the facility to be managed; (7-1-99)T
- b. The temporary manager must not be related, within the first degree of kinship, to the facility's owner, manager, administrator or other management principal; (7-1-99)T
- c. The temporary manager must possess sufficient training, expertise and experience in the operation of a facility as would be necessary to achieve the objectives of temporary management. If the temporary manager is to serve in a facility, the manager must possess an Idaho Residential Care Administrator's license; (7-1-99)T
- d. The temporary manager must not be an existing competitor of the facility who would gain an unfair competitive advantage by being appointed as temporary manager of the facility. (7-1-99)T

06. Powers And Duties Of The Temporary Manager. The temporary manager shall have the authority to direct and oversee the management, hiring and discharge of any consultant or personnel, including the administrator of the facility. The temporary manager shall have the authority to direct the expenditure of the revenues

of the facility in a reasonable, prudent manner, to oversee the continuation of the business and the care of the residents, to oversee and direct those acts necessary to accomplish the goals of the program requirements and to direct and oversee regular accounting, and the making of periodic reports to the licensing agency. The temporary manager shall provide reports no less frequently than monthly showing the facility's compliance status. Should the facility fail or refuse to carry out the directions of the temporary manager, the Department may, at its discretion, impose any other remedies described herein. (7-1-99)T

a. The temporary manager shall observe the confidentiality of the operating policies, procedures, employment practices, financial information, and all similar business information of the facility, except that the temporary manager shall make reports to the state licensing agency as provided in this section; (7-1-99)T

b. The temporary manager shall be liable for gross, willful or wanton negligence, intentional acts of omissions, unexplained shortfalls in the facility's fund, and breaches of fiduciary duty; (7-1-99)T

c. The temporary manager shall be bonded in an amount equal to the facility's revenues for the month preceding the appointment of the temporary manager; (7-1-99)T

d. The temporary manager shall not have authority to cause or direct the facility or its owner, administrator to incur debt or to enter into any contract with a duration beyond the term of the temporary management of the facility; (7-1-99)T

e. The temporary manager shall not have authority to incur, without the permission of the owner, administrator or the Department, capital expenditures in excess of two thousand dollars (\$2,000), unless the capital expenditures are directly related to correcting the identified deficiencies; (7-1-99)T

f. The temporary manager shall not have authority to cause or direct the facility to encumber its assets or receivables, or the premises on which it is located, with any lien or other encumbrances; (7-1-99)T

g. The temporary manager shall not have authority to cause or direct the facility to cancel or reduce its liability or casualty insurance coverage; (7-1-99)T

h. The temporary manager shall not have authority to cause or direct the sale of the facility, its assets or the premises on which it is located. (7-1-99)T

07. Responsibility For Payment Of The Temporary Manager. All compensation and per diem costs of the temporary manager shall be paid by the facility. The Department shall bill the facility for the costs of the temporary manager after termination of temporary management. The costs of the temporary manager for any thirty (30) day period shall not exceed one-sixth (1/6) of the maximum allowable administrator's annual salary for the largest facility. Within fifteen (15) calendar days of receipt of the bill, the facility shall pay the bill or request administrative review to contest the costs for which it was billed. (7-1-99)T

08. Termination Of Temporary Management. A temporary manager may be replaced under the following conditions: (7-1-99)T

a. The Department may replace any temporary manager whose performance is deemed unsatisfactory by the Department. No formal procedure is required for such removal or replacement but written notice of any action shall be given to the facility, including the name of any replacement manager. (7-1-99)T

b. The Department shall not terminate temporary management until it has reasonable assurances that the facility has management capability to ensure continued compliance with all rules. (7-1-99)T

c. A facility subject to temporary management may petition the Department for replacement of a temporary manager whose performance it considers unsatisfactory. The petition shall include why the replacement of a temporary manager is necessary or appropriate. The Department shall respond to a petition for replacement within five (5) calendar days after receipt of said petition. (7-1-99)T

929. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENTS.

01. Summarily Suspend The Facility's License And Transfer Residents. The licensing agency may summarily suspend a facility's license and transfer residents when residents' health and safety are in immediate jeopardy. See Section 111, Subsection 929.02 and Section 971. (7-1-99)T

02. Emergency Powers Of The Director. In the event of an emergency endangering the life or safety of a resident, the Director may summarily suspend or revoke any facility license. As soon thereafter as practicable, the Director shall provide an opportunity for a hearing. (7-1-99)T

930. ENFORCEMENT REMEDY OF PROVISIONAL LICENSE.

Facilities found to be in substantial compliance with this chapter but failing to comply in every detail may be issued a provisional license. See Subsections 126.03.a. and 126.03.b. (7-1-99)T

931. ENFORCEMENT REMEDY OF REVOCATION OF LICENSE.

01. Revoke The Facility's License. The Department may institute a revocation action when the facility is not in substantial compliance with this chapter. (7-1-99)T

02. Causes For Revocation. The licensing agency may revoke any license: (7-1-99)T

a. The license holder has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license; (7-1-99)T

b. The facility is not in substantial compliance with these rules; (7-1-99)T

c. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (7-1-99)T

d. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the facility. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; (7-1-99)T

e. The license holder has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a facility; (7-1-99)T

f. The license holder has violated any of the conditions of a provisional license; (7-1-99)T

g. The facility has one (1) or more major deficiencies. A major deficiency is a deficiency that endangers the health or safety or welfare of any resident; (7-1-99)T

h. An accumulation of minor violations that taken as a whole would constitute a major deficiency as noted in Subsection 931.02.g.; (7-1-99)T

i. Repeat violations of any requirement of these rules or of the Idaho Code; (7-1-99)T

j. The facility lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of residents residing at the facility; and (7-1-99)T

k. The facility is not in substantial compliance with the provisions for services or residents' rights outlined in Subsection 101.04.d., Section 250 through Subsection 251.03.e. (7-1-99)T

l. License holder refuses to allow the licensing agency or the Protection and Advocacy agencies described in Subsection 250.13 full access to the facility environment, facility records, and the residents. (7-1-99)T

932. ENFORCEMENT REMEDY OF INJUNCTION.

Notwithstanding any other remedy at law, the Director may seek an injunction in the name of the state against any

person or governmental unit to enjoin the establishment, conduct, management, or operation of a facility in violation of the provisions of this chapter. See Sections 39-3358, 39-3380, 39-3558, and 39-3570, Idaho Code. (7-1-99)T

933. -- 949. (RESERVED).

950. RIGHT TO SELL.

Nothing contained in Section 150 shall limit the right of any facility owner to sell, lease, mortgage, or close any facility in accordance with all applicable laws. (7-1-99)T

951. NOTICE OF ENFORCEMENT REMEDY.

The Department shall give notice of the imposition of any remedy described in this chapter after the facility is afforded any allowable reviews or hearings as follows: (7-1-99)T

01. Notice To Facility. The Department shall give notice to the facility in writing, transmitted in a manner which shall reasonably ensure timely receipt by the facility such as certified mail or personal delivery; and (7-1-99)T

02. Notice To Public. The Department shall give notice to the public by transmitting printed notices to the facility. The facility shall post all notices where they can reasonably be expected to be read by the facility's residents or their representatives, including, but not limited to, exits and common areas. The notices shall remain in place until all remedies are officially removed by the licensing agency. Failure of a facility to comply with notice posting requirements shall constitute a Class B deficiency; and (7-1-99)T

03. Notice To The Ombudsman. The Department shall give notice to the state Ombudsman for the elderly; and (7-1-99)T

04. Notice To The Resident's Attending Physicians. The Department shall give notice to the attending physician of each resident affected by a finding of substandard quality of care; and (7-1-99)T

05. Notice To The Professional Licensing Boards. The Department shall give notice to professional licensing boards, as appropriate; and (7-1-99)T

06. Failure To Effect Notice. Failure of the Department to effect notice as required in Section 951 through Subsection 951.06 shall not be grounds for the facility to contest any action taken under this chapter. (7-1-99)T

952. -- 969. (RESERVED).

970. PROCEDURE FOR HEARINGS FOR ENFORCEMENT ACTIONS AGAINST A LICENSE.

01. Facility Notification. Immediately upon the decision to implement an enforcement action to include denial of license, the licensing agency shall notify the applicant or administrator in writing by certified mail or by personal service of its decision to implement an enforcement action against the license and the reason for the enforcement action. (7-1-99)T

02. Administrative Review. The notification of denial or revocation shall also offer the applicant or the administrator the opportunity to request an administrative review. Should the facility wish to contest imposition of a remedy, other than a plan of correction and except as provided in Subsections 927.05 and 928.04, a written request for administrative review must be received by the Department within fourteen (14) calendar days of the facility's receipt of notice of imposition of the remedy. The request shall state the grounds for its contention that the imposition of a remedy is in error. (7-1-99)T

a. During this conference, the position of the Department and the facility may be discussed and if possible an alternative to revocation or denial developed. (7-1-99)T

b. The Department shall transmit printed notice of administrative review to the facility. Such notices shall set forth date, time and location whenever the facility has requested and been granted a review on imposition of

a remedy. The facility shall post all notices so provided. The notices shall be placed in areas readily accessible and visible to residents and their representatives. (7-1-99)T

c. The Department shall issue a written decision within fourteen (14) calendar days of the completion of the facility's receipt of the administrative review. The review shall be made solely on the basis of the licensing agency recommendation, the survey report, the statement of deficiencies, any documentation the facility submits to the Department at the time of its request, and information received as a result of the administrative review process. For the purposes of such review, a hearing shall not be held and oral testimony shall not be taken. (7-1-99)T

d. If the facility fails to file a timely request, the decision to impose a remedy or remedies shall become final and no further hearing or judicial review shall be available. (7-1-99)T

03. Administrative Hearing. Should the facility wish to appeal the administrative review decision for remedies described in Section 150 through 150.01 subject to the limitations therein, it may request an administrative hearing in accordance with the provisions of IDAPA 16.05.03, Section 311, et seq., "Rules Governing Contested Cases Proceedings and Declaratory Rulings". The scope of the administrative hearing shall be limited to issues raised and meaningfully addressed in the administrative review. (7-1-99)T

a. If the Department has imposed temporary management pursuant to the provisions of Section 928 or imposed either of the remedies specified in Subsection 150.01.e., the facility shall be entitled to a hearing which shall commence not less than five (5) nor more than ten (10) calendar days after the facility's receipt of notice of imposition of said remedy or remedies. No administrative review shall be conducted in such cases and no request for hearing shall be required. A facility may waive its right to a hearing by written notice to the licensing agency. (7-1-99)T

b. Except in the cases of appointment of a temporary manager, unless the Department has determined that immediate jeopardy to the health or safety of a facility's residents exists, transfer of residents of a facility or payment of civil monetary penalties, the imposition of remedies shall not be stayed during the pendency of any hearing. (7-1-99)T

971. TRANSFER OF RESIDENTS.

The Department may transfer residents from a facility to an alternative placement on the following grounds: (7-1-99)T

01. Violation Of Rules. As a result of a violation of a provision of the rules or standards, the facility is unable or unwilling to provide an adequate level of meals, lodging, personal assistance, or supervision to persons residing in the facility at the time of the violation. (7-1-99)T

02. Violation Of Resident's Rights. A violation of a resident's rights provided in Sections 39-3316, 39-3387, 39-3516, 39-3576, or a combination, Idaho Code. (7-1-99)T

03. Exceed Licensed Bed Capacity. The number of residents currently in the facility exceeds the number of residents the facility is licensed to serve. (7-1-99)T

04. Unlicensed. The facility is operating without a license. (7-1-99)T

05. Imminent Danger. A violation of a provision of this chapter or applicable rules or standards results in conditions that present an imminent danger. (7-1-99)T

972. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals are governed by IDAPA 16.05.03, Section 311 et seq., "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (7-1-99)T

997. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department is subject to the restrictions contained in IDAPA 16.05.01,

"Rules Governing the Protection and Disclosure of Department Records".

(7-1-99)T

998. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.04.12 - RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM

DOCKET NO. 16-0412-9901

NOTICE OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 56-202b; 39-106(l), Idaho Code.

DESCRIPTIVE SUMMARY: The pending rules are being adopted as proposed. The original text of the proposed rules was published in the May 5, 1999 Administrative Bulletin, Volume 99-5, pages 70 and 71.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patti Campbell at (208) 334-5815.

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

IDAPA 16
TITLE 04
Chapter 12

RULES GOVERNING THE INDIVIDUAL AND FAMILY GRANT PROGRAM

**There are no substantive changes
from the proposed rule text.**

**The original text was published in the Idaho
Administrative Bulletin, Volume 99-5, May 5, 1999,
pages 70 and 71.**

**This rule has been adopted as Final by the Agency
and is now pending review by the
2000 Idaho State Legislature for final adoption.**

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.26 - MANAGED CARE REFORM ACT

DOCKET NO. 18-0126-9901

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. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 2, Idaho Code.

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

August 26, 1999 - 9:30 a.m.
Idaho Department of Insurance, J.R. Williams Building
700 W. State Street, 3rd Floor, Boise, ID 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:

Adds a new section clarifying the Department's interpretation of Sections 41-3904 and 41-3927, Idaho Code and provide examples with the Department's position as to each. Provides a definition for the term "Any Willing Provider Law".

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Joan A. Krosch at (208) 334-4300.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before August 26, 1999.

Dated this 23rd day of June, 1999.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250

THE FOLLOWING IS TEXT OF DOCKET NO. 18-0126-9901

004. DEFINITIONS.

01. The Act. All terms defined in the Act which are used in this rule shall have the same meaning as used in the Act. (7-1-98)

02. Any Willing Provider Law. As used in this rule, the term "Any Willing Provider Law" refers to the provisions of Section 41-3927, Idaho Code, that require a MCO to be ready and willing to contract with any provider

- that: ()
- a. Is qualified under Idaho law; ()
 - b. Desires to participate as a provider; ()
 - c. Meets the requirements of the organization; and ()
 - d. Practices within the general area served by the organization as such provisions are more fully set forth in the statute. ()

023. Balance Billing. An organized system of health care providers and providers who accept referrals from the Managed Care Organization are prohibited from balance billing individuals. Balance billing refers to the practice whereby a provider bills an individual covered under the benefit plan for the difference between the amount the provider normally charges for a service and the amount the plan, policy, or contract recognizes as the allowable charge or negotiated price for the service delivered. (7-1-98)

034. Director. The term, Director, as referred to in this rule, shall mean the Director of the Department of Insurance, State of Idaho. NOTE: Senate Bill No. 1294, effective July 1, 1974, created the position of Director of the Department of Insurance to be the chief executive officer of that department and to assume the duties of the previous Commissioner of Insurance. (7-1-98)

045. MCO. Managed Care Organizations shall be abbreviated to MCO in this rule. (7-1-98)

056. MCO Provider. MCO provider means any provider owned, managed, employed by, or under contract with an MCO to provide health care services to MCO members. An MCO provider includes a physician, hospital, or other person licensed or otherwise authorized to furnish health care services. (7-1-98)

(BREAK IN CONTINUITY OF SECTIONS)

017. ~~999.~~ (RESERVED) APPLICATION OF "ANY WILLING PROVIDER LAW".

01. Requirements Of The MCO. A MCO is not required to contract with a provider who does not meet the material requirements of the organization's participating provider contracts. If the MCO's provider contract(s) require(s) the provision of an array of services, then any provider seeking to contract with the MCO as a willing provider must be willing and able to provide all such required services. If a prospective provider is unable to provide the services required under the existing provider contract(s), the provider has not met the MCO's requirements per Section 41-3927(1), Idaho Code. Other "requirements" of the MCO that must be met prior to the satisfaction of the prerequisites within the Any Willing Provider Law are material contractual terms, such as cost, geographic area or scope, and time deadlines. Any requirement imposed by a MCO for the purpose of avoiding the requirements of the Any Willing Provider Law will not be construed as a permissible "requirement" for purposes of Section 41-3927, Idaho Code. ()

02. Non-Licensed Entities. Under Section 41-3904(4), Idaho Code, an entity not required to hold a MCO certificate of authority, but which holds itself out as providing basic health care services, is subject to the Any Willing Provider Law. However, these entities are not subject to regulation by the department. ()

03. Related Laws. While this section explicitly applies to the MCO context in the Any Willing Provider Law, it may be used as guidance in application of the "any willing provider" provisions at Sections 41-1844 and 41-2872, Idaho Code. ()

04. Examples. Without limitation, the following are examples of how the Any Willing Provider Law applies to various fact situations. It is assumed that the contract terms or requirements are legitimate and not mandated for the purpose of avoiding the Any Willing Provider Law. ()

a. A MCO contracts directly with providers and provider networks. A qualified individual provider seeks to contract with the MCO, and is willing to accept the same terms as provided under existing contracts with other similar providers. The MCO is required to contract with the individual provider. ()

b. A MCO contracts directly with providers and provider networks. A provider group seeks to contract with the MCO. The provider group is qualified under Idaho law and is willing and able to offer the same services under the same terms as provided under an existing contract with another provider network. The MCO is required to contract with the provider group. ()

c. A MCO contracts only with one or more provider networks. It does not contract directly with individual providers. A qualified individual provider offers to contract with the MCO upon the same terms as individual providers that contract with the MCO's provider network. The MCO is not required to contract with the individual provider since the provider is not offering to contract on the same terms as the existing provider agreement between the MCO and the provider network. ()

d. A MCO contracts only with one (1) or more provider networks. It does not contract directly with individual providers. Another qualified provider group offers to contract with the MCO on the same terms as the existing network contract, and is able to offer the same categories of services as provided for under the existing contract. The MCO is required to contract with the provider group. ()

e. A provider network not licensed as a MCO contracts with a MCO to provide the MCO's subscribers "basic health care services", as defined at Section 41-3903(1), Idaho Code. The provider network, in turn, enters into contracts for services with individual providers or provider groups. A qualified individual provider or provider group offers to contract with the network upon the same terms as contained in the network's existing contracts with other similar providers or provider groups. The network is subject to the Any Willing Provider Law and required to contract with the provider or provider group. However, the Department cannot force the network to comply with the Any Willing Provider Law because the network is not subject to regulation by the Department. ()

018. -- 999. (RESERVED).

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.69 - RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH
INSURANCE AVAILABILITY ACT

DOCKET NO. 18-0169-9901

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. These rules are proposed pursuant to the authority vested in the Director of the Department of Insurance under Title 41, Chapter 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 nontechnical explanation of the substance and purpose of the proposed rulemaking:

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 and removes prohibition directed at agents and brokers. Removes obsolete provisions concerning small employer health benefit plans. Provides updates to various citations.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning these proposed rules, contact Joan A. Krosch at (208) 334-4300.

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

Dated this 23rd day of June, 1999.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250

THE FOLLOWING IS TEXT OF DOCKET NO. 18-0169-9901

015. APPLICABILITY.

01. Applicability. ~~Except as provided in Subsection 015.02 and Section 091, (1-25-95)()~~ This rule shall apply to any health benefit plan, whether provided on a group or individual basis, which: (1-25-95)()

a. Meets one (1) or more of the conditions set forth in Sections 41-4704(1) through 41-4704(4), Idaho Code; (1-25-95)

b. Provides coverage to two (2) or more eligible employees of a small employer located in this state,

without regard to whether the policy or certificate was issued in this state; and, (1-25-95)

c. Is in effect on or after the effective date of the Act. (1-25-95)

~~**02. Exceptions.** The provisions of this Rule shall not apply to an individual health benefit plan delivered or issued for delivery prior to 4/1/94. (1-25-95)~~

~~**03. Individual Health Benefit Plans Subject To Provisions Of The Act And This Rule.** A carrier that provides individual health benefit plans to two (2) or more of the eligible employees of a small employer shall be considered a small employer carrier and shall be subject to the provisions of the Act and this Rule with respect to such policies if the small employer contributes directly or indirectly to the premiums for the policies and the carrier is aware of such contribution. Agents and brokers are prohibited, at risk of losing their license, from arranging individual health benefit plans which they know to be supported financially by an employer. (1-25-95)~~

~~**04. Provisions That Would Subject Individual Health Plans To The Act And This Rule.** In the case of a carrier that provides individual health benefit plans to two (2) or more eligible employees of a small employer, the small employer shall be considered to be an eligible small employer as defined in Section 41-4708(1)(e), Idaho Code, and the small employer carrier shall be subject to Section 41-4708(1)(b), Idaho Code, relating to guaranteed issue of coverage, if: (1-25-95)~~

~~a. The small employer has at least two (2) eligible employees; (1-25-95)~~

~~b. The small employer contributes as defined in Section 41-4704, Idaho Code; and; (1-25-95)~~

~~e. The carrier is aware of the contribution by the employer. (1-25-95)~~

~~**052. Group Policy Or Trust Arrangement.** The provisions of the Act and this Rule shall apply to a health benefit plan provided to a small employer or to the eligible employees of a small employer without regard to whether the health benefit plan is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group unless such health benefit plan(s) are subject to Title 41, Chapter 52, Idaho Code. (1-25-95)()~~

~~**06. Deduction Under Section 162(1), Internal Revenue Code.** An individual health benefit plan shall not be subject to the provisions of the Act and this Rule solely because the policyholder elects a deduction under Section 162(1), Internal Revenue Code. (1-25-95)~~

~~**073. Subsequent Employment Of More Than Fifty Eligible Employees.** If a small employer is issued a health benefit plan under the terms of the Act, the provisions of the Act and this Rule shall continue to apply to the health benefit plan in the case that the small employer subsequently employs more than fifty (50) eligible employees. A carrier providing coverage to such an employer shall, within sixty (60) days of becoming aware that the employer has more than fifty (50) eligible employees but no later than the anniversary date of the employer's health benefit plan, notify the employer that the protections provided under the Act and this Rule shall cease to apply to the employer if such employer fails to renew its current health benefit plan or elects to enroll in a different health benefit plan. (7-1-98)~~

~~**084. Employer Subsequently Becomes A Small Employer.** If a health benefit plan is issued to an employer that is not a small employer as defined in the Act, but subsequently the employer becomes a small employer (due to the loss or change of work status of one or more employees), the terms of the Act shall not apply to the health benefit plan. The carrier providing a health benefit plan to such an employer shall not become a small employer carrier under the terms of the Act solely because the carrier continues to provide coverage under the health benefit plan to the employer. (1-25-95)~~

~~**095. Time Period For Notification Of Options To Employer.** A carrier providing coverage to an employer described in Subsection 015.08 shall, within sixty (60) days of becoming aware that the employer has fifty (50) or fewer eligible employees, notify the employer of the options and protections available to the employer under the Act, including the employer's option to purchase a small employer health benefit plan from any small employer carrier. (7-1-98)~~

406. Employees In More Than One State. If a small employer has employees in more than one (1) state, the provisions of the Act and this Rule shall apply to a health benefit plan issued to the small employer if: (1-25-95)

- a. The majority of eligible employees of such small employer are employed in this state; or (1-25-95)
- b. If no state contains a majority of the eligible employees of the small employer, the primary business location of the small employer is in this state. (1-25-95)

407. Laws Of This State Or Another State. In determining whether the laws of this state or another state apply to a health benefit plan issued to a small employer described in Subsection 015.10, the provisions of the paragraph shall be applied as of the date the health benefit plan was issued to the small employer for the period that the health benefit plan remains in effect. (1-25-95)

408. Health Benefit Plan Subject To The Act And This Rule. If a health benefit plan is subject to the Act and this Rule, the provisions of the Act and this Rule shall apply to all individuals covered under the health benefit plan, whether they reside in this state or in another state. (1-25-95)

409. When Is A Small Employer Carrier Not Subject To The Act And This Rule. A carrier that is not operating as a small employer carrier in this state shall not become subject to the provisions of the Act and this Rule solely because a small employer that was issued a health benefit plan in another state by that carrier moves to this state. (1-25-95)

(BREAK IN CONTINUITY OF SECTIONS)

036. RESTRICTIONS RELATING TO PREMIUM RATES.

01. Separate Rate Manual For Each Class Of Business. A small employer carrier shall develop a separate rate manual for each class of business. Base premium rates and new business premium rates charged to small employers by the small employer carrier shall be computed solely from the applicable rate manual developed pursuant to this subsection. To the extent that a portion of the premium rates charged by a small employer carrier is based on the carrier's discretion, the manual shall specify the criteria and factors considered by the carrier in exercising such discretion. (1-25-95)

02. Requirements For Adjustments To Rating Method. A small employer carrier shall not modify the rating method used in the rate manual for a class of business until the change has been approved as provided in this subsection. The Director may approve a change to a rating method if the Director finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this Rule. (1-25-95)

03. Information Required For Review Of Modification Of Rating Method. A carrier may modify the rating method for a class of business only with prior approval of the Director. A carrier requesting to change the rating method for a class of business shall make a filing with the Director at least thirty (30) days prior to the proposed date of the change. The filing shall contain at least the following information: (1-25-95)

- a. The reasons the change in rating method is being requested; (1-25-95)
- b. A complete description of each of the proposed modifications to the rating method; (1-25-95)
- c. A description of how the change in rating method would affect the premium rates currently charged to small employers in the class of business, including an estimate from a qualified actuary of the number of groups or individuals (and a description of the types of groups or individuals) whose premium rates may change by more than ten percent (10%) due to the proposed change in rating method (not generally including increases in premium rates applicable to all small employers in a health benefit plan); (1-25-95)

d. A certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and (1-25-95)

e. A certification from a qualified actuary that the proposed change in rating method would not produce premium rates for small employers that would be in violation of Section 41-4706, Idaho Code. (1-25-95)

04. Change In Rating Method. For the purpose of Section 036 a change in rating method shall mean: (1-25-95)

a. A change in the number of case characteristics used by a small employer carrier to determine premium rates for health benefit plans in a class of business (a small employer should not use case characteristics other than age, individual tobacco use, geography or gender without prior approval of the Director); (7-1-98)

b. A change in the manner or procedures by which insureds are assigned into categories for the purpose of applying a case characteristic to determine premium rates for health benefit plans in a class of business; (1-25-95)

c. A change in the method of allocating expenses among health benefit plans in a class of business; or (1-25-95)

d. A change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any small employer that exceeds ten percent (10%). (1-25-95)

e. For the purpose of Subsection 036.04, a change in a rating factor shall mean the cumulative change with respect to such factor considered over a twelve (12) month period. If a small employer carrier changes rating factors with respect to more than one case characteristic in a twelve (12) month period, the carrier shall consider the cumulative effect of all such changes in applying the ten percent (10%) test. (1-25-95)

05. Rate Manual To Specify Case Characteristics And Rate Factors To Be Applied. The rate manual developed pursuant to Subsection 036.01 shall specify the case characteristics and rate factors to be applied by the small employer carrier in establishing premium rates for the class of business. (1-25-95)

06. Case Characteristics Other Than Age, Individual Tobacco Use, Geography And Gender - Must Have Prior Approval Of Director. A small employer carrier may not use case characteristics other than those specified in Section 41-4706(1)(~~E~~), Idaho Code, without the prior approval of the Director. A small employer carrier seeking such an approval shall make a filing with the Director for a change in rating method under Subsection 036.02. (~~7-1-98~~)(____)

07. Case Characteristics Shall Be Applied In A Uniform Manner. A small employer carrier shall use the same case characteristics in establishing premium rates for each health benefit plan in a class of business and shall apply them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics shall be applied without regard to the risk characteristics of a small employer. (1-25-95)

08. Rate Manual Must Clearly Illustrate Relationship Among Base Premium Rate And Any Difference In New Business Rate. The rate manual developed pursuant to Subsection 036.01 shall clearly illustrate the relationship among the base premium rates charged for each health benefit plan in the class of business. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual shall illustrate the difference. (1-25-95)

09. Differences In Premium Rates Must Reflect Reasonable And Objective Differences. Differences among base premium rates for health benefit plans shall be based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and shall not be based in any way on the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan. A small employer carrier shall apply case characteristics and rate factors within a class of business in a manner that assures that premium differences among health benefit plans for identical small employer groups vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and

are not due to the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan. (1-25-95)

10. Premium Rates To Be Developed In Two Step Process. The rate manual developed pursuant to Subsection 036.01 shall provide for premium rates to be developed in a two (2) step process. In the first step, a base premium rate shall be developed for the small employer group without regard to any risk characteristics of the group. In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Section 41-4706, Idaho Code, to reflect the risk characteristics of the group. (1-25-95)

11. Exception To Application Fee, Underwriter Fee, Or Other Fees. Except as provided in Subsection 036.12, a premium charged to a small employer for a health benefit plan shall not include a separate application fee, underwriting fee, or any other separate fee or charge. (1-25-95)

12. Uniform Application Of Fees. A carrier may charge a separate fee with respect to a health benefit plan provided the fee is applied in a uniform manner to every health benefit plan in a class of business. All such fees are premium and shall be included in determining compliance with the Act and these Rules. (1-25-95)

13. Uniform Allocation Of Administration Expenses. ~~A small employer carrier shall allocate administrative expenses to the basic, standard, and catastrophic health benefit plans on no less favorable of a basis than expenses are allocated to other health benefit plans in the class of business.~~ The rate manual developed pursuant to Subsection 036.01 shall describe the method of allocating administrative expenses to the health benefit plans in the class of business for which the manual was developed. (7-1-98)()

14. Rate Manual To Be Maintained For A Period Of Six Years. Each rate manual developed pursuant to Subsection 015.01 shall be maintained by the carrier for a period of six (6) years. Updates and changes to the manual shall be maintained with the manual. (1-25-95)

15. Rate Manual And Practices Must Comply With Guidelines Issued By Director. The rate manual and rating practices of a small employer carrier shall comply with any guidelines issued by the Director. (1-25-95)

16. Application Of Restrictions Related To Changes In Premium Rates. The restrictions related to changes in premium rates are set forth in Section 41-4706(1)(c), Idaho Code, and shall be applied as follows: (1-25-95)

a. A small employer carrier shall revise its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates. (1-25-95)

b. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate shall be deemed to be the change in the base premium rate for the purposes of Sections 41-4706(1)(c)(ii) and 41-4706(1)(f)(i), Idaho Code. (1-25-95)

c. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan shall be considered a health benefit plan into which the small employer carrier is no longer enrolling new small employers for the purposes of Sections 41-4706(1)(c) and (f), Idaho Code. (1-25-95)

d. If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan in the same class of business by more than twenty percent (20%), the carrier shall make a filing with the Director containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing shall be made within thirty (30) days of the beginning of the rating period. (1-25-95)

e. A small employer carrier shall keep on file for a period of at least six (6) years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period. (1-25-95)

17. Change In Premium Rate. Except as provided in Subsections 036.18 and 036.19, a change in premium rate for a small employer shall produce a revised premium rate that is no more than the following:(1-25-95)

- a. The base premium rate for the small employer, given its present composition, (as shown in the rate manual as revised for the rating period), multiplied by; (1-25-95)
- b. One (1) plus the sum of: (1-25-95)
 - i. The risk load applicable to the small employer during the previous rating period; and (1-25-95)
 - ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (1-25-95)

18. Rating Restrictions On Plans Where Carrier Is No Longer Enrolling New Business. In the case of a health benefit plan into which a small employer carrier is no longer enrolling new small employers, a change in premium rate for a small employer shall produce a revised premium rate that is no more than the base premium rate for the small employer (given its present composition and as shown in the rate manual in effect for the small employer at the beginning of the previous rating period), multiplied by Subsections 036.18.a. and 036.18.b. below. (1-25-95)()

- a. One (1) plus the lesser of: (1-25-95)
 - i. The change in the base rate; or (1-25-95)
 - ii. The percentage change in the new business premium for the most similar health benefit plan into which the small employer carrier is enrolling new small employers. (1-25-95)
- b. One (1) plus the sum of: (1-25-95)
 - i. The risk load applicable to the small employer during the previous rating period; and (1-25-95)
 - ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (1-25-95)

~~**19. Plans Written Prior To January 1, 1994.** In the case of a health benefit plan described in Section 41-4706(1)(f), Idaho Code, if the current premium rate for the health benefit plan exceeds the ranges set forth in Section 41-4706, Idaho Code, the formulae set forth in Subsections 036.17 and 036.18 will be applied as if the fifteen (15%) adjustment provided in Subsections 036.17.b.ii. and 036.18.c.ii. were a zero percent (0%) adjustment. (1-25-95)~~

2019. Limitations On Revised Premium Rate. Notwithstanding the provisions of Subsections 036.17 and 036.18, a change in premium rate for a small employer shall not produce a revised premium rate that would exceed the limitations on rates provided in Section 41-4706(1)(b), Idaho Code. (1-25-95)

240. Waiver Request For A Taft-Hartley Trust. A representative of a Taft-Hartley trust (including a carrier upon the written request of such a trust) may file a written request with the Director for the waiver of application of the provisions of Section 41-4706(1), Idaho Code, with respect to such trust. (1-25-95)

221. Provisions For Which Trust Is Seeking Waiver. A request made under Subsection 036.21 shall identify the provisions for which the trust is seeking the waiver and shall describe, with respect to each provision, the extent to which application of such provision would: (1-25-95)

- a. Adversely affect the participants and beneficiaries of the trust; and (1-25-95)
- b. Require modifications to one (1) or more of the collective bargaining agreements under or pursuant to which the trust was or is established or maintained. (1-25-95)

232. Waiver Shall Not Apply To Individual Or Associate Member. A waiver granted under this

provision shall not apply to an individual who participates in the trust because the individual is an associate member of an employee organization or the beneficiary of such an individual. (1-25-95)

(BREAK IN CONTINUITY OF SECTIONS)

046. REQUIREMENT TO INSURE ENTIRE GROUPS.

01. Offer Of Coverage. A small employer carrier that offers coverage to a small employer shall offer to provide coverage to each eligible employee and to each dependent of an eligible employee. Except as provided in Subsection 046.02, the small employer carrier shall provide the same health benefit plan to each such employee and dependent. (1-25-95)

02. Choice Of Health Benefit Plans. A small employer carrier may offer the employees of a small employer the option of choosing among one or more health benefit plans, provided that each eligible employee may choose any of the offered plans. Except as provided in Section 41-4708(3), Idaho Code, (with respect to exclusions for pre-existing conditions), the choice among benefit plans may not be limited, restricted or conditioned based upon the risk characteristics of the eligible employees or their dependents. (1-25-95)

03. Participation Requirement. The small employer carrier may impose reasonable minimum participation requirements for issuance of coverage to small employers, subject to prior approval from the Director. (1-25-95)

04. Employer Census And Supporting Documentation. A small employer carrier shall require each small employer that applies for coverage, as part of the application process, to prepare or provide an employer census of dependents and eligible employees as defined in Sections 41-4703 (123) and (145), Idaho Code. The small employer carrier shall require the small employer to provide appropriate supporting documentation (such as the W-2 Summary Wage and Tax Form) or a certification of information by a Small Employer as to the current census information. (~~1-25-95~~)(____)

05. Waiver For Documentation Of Coverage. A small employer carrier shall secure a waiver with respect to each eligible employee and each dependent of such an eligible employee who declines an offer of coverage under a health benefit plan provided to a small employer. The waiver shall be signed by the eligible employee (on behalf of such employee or the dependent of such employee) and shall certify that the individual who declined coverage was informed of the availability of coverage under the health benefit plan. The waiver form shall require that the reason for declining coverage be stated on the form and shall include a written warning of the penalties imposed on late enrollees. Waivers shall be maintained by the small employer carrier for a period of six (6) years. (1-25-95)

06. Refusal To Provide Information. A small employer carrier shall not issue coverage to a small employer that refuses to provide the list required under Subsection 046.01 or a waiver required under Subsection 046.05, except for the following: (1-25-95)

a. The excluded individual has coverage under a health benefit plan or other health benefit arrangement that provides benefits similar to or exceeding benefits provided under the basic health benefit plan. (1-25-95)

07. Small Employer Carrier Shall Not Issue Coverage. A small employer carrier shall not issue coverage to a small employer if the carrier, or an agent for such carrier, has reason to believe that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to the individual's risk characteristics. (1-25-95)

08. Agent Notification To Small Employer Carrier. An agent shall notify a small employer carrier, prior to submitting an application for coverage with the carrier on behalf of a small employer, of any circumstances that would indicate that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to the individual's risk characteristics. (1-25-95)

09. New Entrants. New entrants to a small employer group shall be offered an opportunity to enroll in the health benefit plan currently held by such group based upon the provisions of Section 41-4708(3)(~~ba~~), Idaho Code. A new entrant that does not exercise the opportunity to enroll in the health benefit plan within the period provided by the small employer carrier may be treated as a late enrollee by the carrier, provided that the period provided to enroll in the health benefit plan extends at least thirty (30) days after the date the new entrant is notified of his or her opportunity to enroll. The period of continuous coverage shall not include any waiting period for the effective date of the new coverage applied by the employer or the carrier to all new enrollees under the Employee Benefit Plan. If a small employer carrier has offered more than one health benefit plan to a small employer group pursuant to Subsection 046.02, the new entrant shall be offered the same choice of health benefit plans as the other members of the group. (1-25-95)(~~_____~~)

10. Small Employer Carrier Shall Not Apply Waiting Period Or Similar Limitation. A small employer carrier shall not apply a waiting period, elimination period or other similar limitation of coverage (other than an exclusion for pre-existing medical conditions consistent with Section 41-4708(3)(~~ba~~), Idaho Code. This provision does not preclude application of any waiting periods applicable to all new enrollees under the health benefit plan. (1-25-95)(~~_____~~)

11. No Restrictions Or Limitations On Coverage Related To Risk Characteristics. New entrants to a group shall be accepted for coverage by the small employer carrier without any restrictions or limitations on coverage related to the risk characteristics of the employees or their dependents, except that a carrier may exclude or limit coverage for pre-existing medical conditions, consistent with the provisions provided in Section 41-4708(3)(~~a~~), Idaho Code. (1-25-95)(~~_____~~)

12. Risk Load. A small employer carrier may assess a risk load to the premium rate associated with a new entrant, consistent with the requirements of Section 41-4706, Idaho Code. The risk load shall be the same risk load charged to the small employer group immediately prior to acceptance of the new entrant into the group. (1-25-95)

~~**13. Open Enrollment.** In the case of an eligible employee (or dependent of an eligible employee) who, prior to the effective date of Section 41-4708, Idaho Code, was excluded from coverage or denied coverage by a small employer carrier in the process of providing a health benefit plan to an eligible small employer (as defined in Section 41-4708(1)(c), Idaho Code, the small employer carrier shall provide an opportunity for the eligible employee (or dependent of such eligible employee) to enroll in the health benefit plan currently held by the small employer. (1-25-95)~~

~~**14. Statement That Coverage Was Not Offered.** A small employer carrier may require an individual who requests enrollment under this subsection to sign a statement indicating that such individual sought coverage under the group contract (other than as a late enrollee) and that the coverage was not offered to the individual. (1-25-95)~~

15. Opportunity To Enroll. The opportunity to enroll shall meet the following requirements: (1-25-95)

a. The opportunity to enroll shall begin October 1st, 1994 and shall last for a period of at least thirty (30) days. (1-25-95)

b. Eligible employees and dependents of eligible employees who are provided an opportunity to enroll pursuant to this subsection shall be treated as new entrants. Premium rates related to such individuals shall be set in accordance with Subsection 046.15.e. (1-25-95)

~~e. The terms of coverage offered to an individual described in Subsection 046.13 may exclude or limit, coverage for pre-existing medical conditions if the health benefit plan currently held by the small employer contains such an exclusion or limitation, provided that the exclusion or limitation shall be reduced by the number of days between the date the individual was excluded or denied or limited coverage and the date coverage is provided to the individual pursuant to this subsection. (1-25-95)~~

~~d. A small employer carrier shall provide written notice at least forty five (45) days prior to the opportunity to enroll provided in Subsection 046.13 to each small employer insured under a health benefit plan offered by such carrier. The notice shall clearly describe the rights granted under this subsection to employees and dependents who were previously excluded from or allowed through a rider or limited benefits or denied coverage and the process for enrollment of such individuals in the employer's health benefit plan. (1-25-95)~~

163. Rescission Employer Misstatements. (1-25-95)()

a. When material application misstatements are found, rescission action by the carrier shall be taken at the carrier's option against the coverage of an entire small employer (including employees and dependents) and shall be limited to circumstances under which the application misstatements have been made by the small employer in his or her capacity as an employer. When rescission action is taken, per Section 41-4707(1)(b), Idaho Code, premiums must be refunded less any claims which had been paid prior to the date the rescission was initiated. At the carrier's option, the carrier shall seek to recover any amounts of claims paid in excess of premiums paid. The applicable contract or coverage shall be considered null and void. (1-25-95)()

~~b. Employer Misstatements Rescissions taken against the coverage of an entire small employer (including employees and dependents) shall be limited to circumstances under which the application misstatements have been made by the small employer in his or her capacity as an employer. (1-25-95)~~

(BREAK IN CONTINUITY OF SECTIONS)

055. APPLICATION TO REENTER STATE.

~~01. **Restrictions On Offering Small Group Health Insurance.** A carrier that has been prohibited from writing coverage for small employers in this state pursuant to Section 41-4707(2), Idaho Code, may not resume offering health benefit plans to small employers in this state until the carrier has made a petition to the Director to be reinstated as a small employer carrier and the petition has been approved by the Director. In reviewing a petition, the Director may ask for such information and assurances as the Director finds reasonable and appropriate. (1-25-95)~~

~~02. **Restrictions Based On Geographic Service Area.** In the case of a small employer carrier doing business in only one (1) established geographic service area of the state, if the small employer carrier elects to non renew a health benefit plan under Section 41-4707(1)(f), Idaho Code, the small employer carrier shall be prohibited from offering health benefit plans to small employers in that service area for a period of five (5) years. (1-25-95)~~

(BREAK IN CONTINUITY OF SECTIONS)

060. QUALIFYING PREVIOUS AND QUALIFYING EXISTING COVERAGES.

01. Previous Coverage Or Existing Coverage. In determining whether a health benefit plan or other health benefit arrangement (whether public or private) shall be considered qualifying previous coverage or qualifying existing coverage for the purposes of Sections 41-4703(19), 41-4703(235), and 41-4708(3)(bc), and 41-4708(3)(c), Idaho Code, a small employer carrier shall interpret the Act no less favorably to an insured individual than the following: (1-25-95)()

a. A health benefit plan, certificate or other health benefit arrangement, with the exception of a policy issued under Title 41, Chapter 52, Idaho Code, shall be considered employer-based if an employer sponsors the plan or arrangement or makes a contribution to the plan or arrangement; and (1-25-95)()

b. A health benefit plan, certificate or other benefit arrangement shall be considered to provide benefits similar to or exceeding the benefits provided under the basic health benefit plan if the policy, certificate or other benefit arrangement provides benefits that: (1-25-95)

i. Have an actuarial value (as considered for a normal distribution of groups) that is not substantially less than the actuarial value of the basic health benefit plan; or (1-25-95)

ii. Provides coverage for hospitalization and physician services that is substantially similar to or exceeds the coverage for such services in the basic health benefit plan. (1-25-95)

c. In making a determination under Subsection 060.01.b., a small employer carrier shall evaluate the previous or existing policy, certificate or other benefit arrangement taken as a whole and shall not base its decision solely on the fact that one portion of the previous or existing policy, certificate or benefit arrangement provides less coverage than the comparable portion of the basic health benefit plan. (1-25-95)

02. Particular Service. For the purposes of Section 41-4708(3)(~~bc~~), Idaho Code, an individual will be considered to have qualifying previous coverage with respect to a particular service if the previous policy, certificate or other benefit arrangement covering such individual met the definition of qualifying previous coverage contained in Section 41-4703(2~~35~~), Idaho Code, and provided any benefit with respect to the service. (~~1-25-95~~)()

03. Source Of Previous Or Existing Coverage. A small employer carrier shall ascertain the source of previous or existing coverage of each eligible employee and each dependent of an eligible employee at the time such employee or dependent initially enrolls into the health benefit plan provided by the small employer carrier. The small employer carrier shall have the responsibility to contact the source of such previous or existing coverage to resolve any questions about the benefits or limitations related to such previous or existing coverage. (1-25-95)

(BREAK IN CONTINUITY OF SECTIONS)

067. RESTRICTIVE RIDERS.

~~**01. Restrictive Riders.** A restrictive rider, endorsement or other provision that would violate the provisions of Section 41-4708(3)(c)(ii), Idaho Code, and that was in force on the effective date of this rule may not remain in force beyond the first anniversary date of the health benefit plan subject to the restrictive provision that follows the effective date of this rule. A small employer carrier shall provide written notice to those small employers whose coverage will be changed pursuant to this subsection at least thirty (30) days prior to the required change to the health benefit plan. (1-25-95)~~

~~**02. Basic, Standard, And Catastrophic Plans.** Except as permitted in Section 41-4708(3), Idaho Code, a small employer carrier shall not modify or restrict a basic, standard, or catastrophic health benefit plan in any manner for the purposes of restricting or excluding coverage or benefits for specific diseases, medical conditions or services otherwise covered by the plan. (7-1-98)~~

~~**03. Other Health Benefit Plans.** Except as permitted in Section 41-4708(3), Idaho Code, a small employer carrier shall not modify or restrict any health benefit plan with respect to any eligible employee or dependent of an eligible employee, through riders, endorsements or otherwise, for the purpose of restricting or excluding the coverage or benefits provided to such employee or dependent for specific diseases, medical conditions, including but not limited to pregnancy, or services otherwise covered by the plan. (1-25-95)()~~

(BREAK IN CONTINUITY OF SECTIONS)

075. RULES RELATED TO FAIR MARKETING.

01. Small Employer Carrier Shall Actively Market. A small employer carrier shall actively market each of its health benefit plans to small employers in this state. A small employer carrier may not suspend the marketing or issuance of health benefit plans including but not limited to the basic, standard, or catastrophic health

benefit plans unless the carrier has good cause and has received the prior approval of the Director. (7-1-98)()

~~**02. Marketing Basic, Standard, Or Catastrophic Plans.** In marketing the basic, standard, or catastrophic health benefit plans to small employers, a small employer carrier shall use at least the same sources and methods of distribution that it uses to market other health benefit plans to small employers. Any producer authorized by a small employer carrier to market health benefit plans to small employers in the state shall also be authorized to market the basic, standard, or catastrophic health benefit plans. (7-1-98)~~

~~**03. Offer Must Be In Writing.** A small employer carrier shall offer at least the basic, standard, or catastrophic health benefit plans to any small employer that applies for or makes an inquiry regarding health insurance coverage from the small employer carrier. The offer shall be in writing and shall include at least the following information: (7-1-98)~~

~~a. A general description of the benefits contained in the basic, standard, or catastrophic health benefit plans and any other health benefit plan being offered to the small employer, and (7-1-98)~~

~~b. Information describing how the small employer may enroll in the plans. The offer may be provided directly to the small employer or delivered through a producer. (1-25-95)~~

~~**042. Timeliness Of Price Quote.** A small employer carrier shall provide a price quote to a small employer (directly or through an authorized producer) within ten (10) working days of receiving a request for a quote and such information as is necessary to provide the quote. A small employer carrier shall notify a small employer (directly or through an authorized producer) within five (5) working days of receiving a request for a price quote of any additional information needed by the small employer carrier to provide the quote. (1-25-95)~~

~~**05. Restrictions As To Application Process.** A small employer carrier may not apply more stringent or detailed requirements related to the application process for the basic, standard, or catastrophic health benefit plans than are applied for other health benefit plans offered by the carrier. (7-1-98)~~

~~**06. Denial Of Coverage.** If a small employer carrier denies coverage under a health benefit plan to a small employer on the basis of a risk characteristic, the denial shall be in writing and shall be maintained in the small employer carrier's office. This written denial shall state with specificity the risk characteristic(s) of the small employer group that made it ineligible for the health benefit plan it requested (for example, health status, industry, group size, etc.). The denial shall be accompanied by a written explanation of the availability of the basic, standard, or catastrophic health benefit plans from the small employer carrier. The explanation shall include at least the following: (7-1-98)~~

~~a. A general description of the benefits contained in each such plan; (1-25-95)~~

~~b. A price quote for each such plan; and (1-25-95)~~

~~e. Information describing how the small employer may enroll in such plans. The written information described in this paragraph may be provided within the time periods provided in Subsection 075.04 directly to the small employer or delivered through an authorized producer. (1-25-95)~~

~~**07. Lowest Priced Basic, Standard, Or Catastrophic Plan.** The price quote required under Subsection 075.06.b. shall be for the lowest priced basic, standard, or catastrophic health benefit plan for which the small employer is eligible. (7-1-98)~~

~~**083. Toll-Free Telephone Service.** A small employer carrier shall establish and maintain a toll-free telephone service to provide information to small employers regarding the availability of small employer health benefit plans in this state. The service shall provide information to callers on how to apply for coverage from the carrier. The information may include the names and phone numbers of producers located geographically proximate to the caller or such other information that is reasonably designed to assist the caller to locate an authorized producer or to otherwise apply for coverage. (1-25-95)~~

~~**094. Restrictions As To Contribution To Association.** The small group carrier shall not require a small~~

employer to join or contribute to any association or group as a condition of being accepted for coverage by the small employer carrier, except that, if membership in an association or other group is a requirement for accepting a small employer into a particular health benefit plan, a small employer carrier may apply such requirement, subject to the requirements of Section 41-4708(1)(b)(ii), Idaho Code. (1-25-95)

105. No Requirement To Qualify For Other Insurance Product. A small employer carrier may not require, as a condition to the offer of sale of a health benefit plan to a small employer, that the small employer purchase or qualify for any other insurance product or service. (1-25-95)

106. Plans Subject To Requirement Of The Act And This Rule. Carriers offering individual and group health benefit plans in this state shall be responsible for determining whether the plans are subject to the requirements of the Act and this Rule. Carriers shall elicit the following information from applicants for such plans at the time of application: (1-25-95)()

a. ~~Whether or not any portion of the premium will be paid by or on behalf of a small employer, either directly or through wage adjustments or other means of reimbursement; and~~ (1-25-95)

b. ~~Whether or not the prospective policyholder, certificate holder or any prospective insured individual intends to treat the health benefit plans as part of plan or program under Section 162 (other than Section 162(1)), Section 125 or Section 106, Internal Revenue Code.~~ (1-25-95)

~~**12. Failure To Comply.** If a small employer carrier fails to comply with Subsection 075.11, the small employer carrier shall be deemed to be on notice of any information that could reasonably have been attained if the small employer carrier had complied with Subsection 075.11.~~ (1-25-95)

1307. Annual Filing Requirement. A small employer carrier shall file annually the following information with the Director related to health benefit plans issued by the small employer carrier to small employers in this state on forms prescribed by the Director: (1-25-95)

a. The number of small employers that were covered under health benefit plans in the previous calendar year (separated as to newly issued plans and renewals); (1-25-95)

b. The number of small employers that were covered under the basic, standard, or catastrophic health benefit plan in the previous calendar year (separated as to newly issued plans and renewals). (7-1-98)

c. The number of small employer health benefit plans in force in each county (or by five digit zip code) of the state as of December 31 of the previous calendar year; (1-25-95)

d. The number of small employer health benefit plans that were voluntarily not renewed by small employers in the previous calendar year; (1-25-95)

e. The number of small employer health benefit plans that were terminated or non renewed (for reasons other than nonpayment of premium) by the carrier in the previous calendar year; and (1-25-95)

f. The number of health benefit plans that were issued to residents that were uninsured for at least sixty-three (63) days prior to issue. (7-1-98)

1408. Total Number Of Residents. All carriers shall file annually with the Director, on forms prescribed by the Director, the total number of residents, including spouses and dependents, covered during the previous calendar year under all health benefit plans issued in this state. This includes residents covered under stop loss plans. (1-25-95)

1509. Filing Date. The information described in Subsections 075.1307 and 075.1408 shall be filed no later than March 15, each year. (1-25-95)()

160. Specific Data. For purposes of this section, health benefit plan information shall include policies or certificates of insurance for specific disease, hospital confinement indemnity and stop loss coverages. (1-25-95)

(BREAK IN CONTINUITY OF SECTIONS)

081. STATUS OF CARRIERS AS SMALL EMPLOYER CARRIERS.

01. Market Status. Each carrier providing health benefit plans in this state shall make a filing to the Director if it intends to continue or discontinue to operate as a small employer carrier in this state under the terms of this Rule. (1-25-95)

02. Restrictions As To The Offering Of Insurance. Subject to Subsection 081.03, a carrier shall not offer health benefit plans to small employers, or continue to provide coverage under health benefit plans previously issued to small employers in this state, unless the filing provided pursuant to Subsection 081.01 indicates that the carrier intends to operate as a small employer carrier in this state. (1-25-95)

03. Specific Compliance Requirements. If the filing made pursuant Subsection 081.01 indicates that a carrier does not intend to operate as a small employer carrier in this state, the carrier may continue to provide coverage under health benefit plans previously issued to small employers in this state only if the carrier complies with the following provisions: (1-25-95)

a. The carrier complies with the requirements of the Act (other than Sections 41-4709, 41-4710, and 41-4711, Idaho Code) with respect to each of the health benefit plans previously issued to small employers by the carrier. (1-25-95)

b. The carrier provides coverage to each new entrant to a health benefit plan previously issued to a small employer by the carrier. The provisions of the Act (other than Sections 41-4709, 41-4710, and 41-4711, Idaho Code) and this Rule shall apply to the coverage issued to such new entrants. (1-25-95)

c. The carrier complies with the requirements of Sections 067 and 091 of this Rule as they apply to small employers whose coverage has been terminated by the carrier and to individuals and small employers whose coverage has been limited or restricted by the carrier. (1-25-95)()

04. Not Eligible For Reinsurance Program. A carrier that continues to provide coverage pursuant to this subsection shall not be eligible to participate in the reinsurance program established under Section 41-4711, Idaho Code. (1-25-95)

05. Precluded From Operating In Idaho. If the filing made pursuant Subsection 081.01 indicates that a carrier does not intend to operate as a small employer carrier in this state, the carrier shall be precluded from operating as a small employer carrier in this state (except as provided for in Subsections 081.03.a. through 081.03.c.) for a period of five (5) years from the date of the filing. Upon a written request from such a carrier, the Director may reduce the period provided for in the previous sentence if the Director finds that permitting the carrier to operate as a small employer carrier would be in the best interests of the small employers in the state. (1-25-95)

~~082. -- 090. (RESERVED).~~

~~091. RESTORATION OF COVERAGE.~~

~~01. Restoration Of Coverage.~~ Except as provided in Subsection 091.02, a small employer carrier shall, as a condition of continuing to transact business in this state with small employers, offer to provide a health benefit plan as described in Subsection 091.04 to any small employer whose coverage was terminated or not renewed by such small employer carrier after July 1, 1993. (1-25-95)

~~02. The Offer.~~ The offer required under Subsection 091.01 shall not be required with respect to a health benefit plan that was not renewed if: (1-25-95)

~~a. The health benefit plans was not renewed for reasons permitted in Section 41-4707(1), Idaho Code;~~
~~or-~~ (1-25-95)

~~b. The non renewal was a result of the small employer voluntarily electing coverage under a different health benefit plan.~~ (1-25-95)

~~**03. Time Limit.** The offer made under Subsection 091.01 and 091.02 shall occur not later than thirty (30) days after a carrier indicates its intention to operate as a small employer carrier in this state pursuant to Section 081. A small employer shall be given at least sixty (60) days to accept an offer made pursuant to Subsections 091.01 and 091.02.~~ (1-25-95)

~~**04. Health Benefit Plan Requirement.** A health benefit plan provided to a terminated small employer pursuant to Subsection 091.01 shall meet the following conditions:~~ (1-25-95)

~~a. The health benefit plan shall contain benefits that are identical to the benefits in the health benefit plan that was terminated or non renewed;~~ (1-25-95)

~~b. The health benefit plan shall not be subject to any waiting periods (including exclusion periods for pre-existing conditions) or other limitations on coverage that exceed those contained in the health benefit plan that was terminated or non renewed. In applying such exclusions or limitations, the health benefit plan shall be treated as if it were continuously in force from the date it was originally issued to the date that it is restored;~~ (1-25-95)

~~e. The health benefit plan shall not be subject to any provision that restricts or excludes coverage or benefits for specific diseases, medical conditions or services otherwise covered by the plan;~~ (1-25-95)

~~d. The health benefit plan shall provide coverage to all employees who are eligible employees as of the date the plan is restored. The carrier shall offer coverage to each dependent of such eligible employees;~~ (1-25-95)

~~e. The premium rate for the health benefit plan shall be no more than the premium rate charged to the small employer on the date the health benefit plan was terminated or non renewed; provided that, if the number or case characteristics of the eligible employees (or their dependents) of the small employer has changed between the date the health benefit plan was terminated or non renewed and the date that it is restored, the carrier may adjust the premium rates to reflect any changes in case characteristics of the small employer. If the carrier has increased premium rates for other similar groups with similar coverage to reflect general increases in health care costs and utilization, the premium rate may further be adjusted to reflect the lowest such increase given to a similar group. The premium rate for the health benefit plan may not be increased to reflect any changes in risk characteristics of the small employer group until one year after the date of health benefit plan is restored. Any such increase shall be subject to the provisions of Section 41-4706, Idaho Code; and~~ (1-25-95)

~~f. The health benefit plan shall not be eligible to be reinsured under the provisions of Section 41-4711, Idaho Code, except that the carrier may reinsure new entrants to the health benefit plan who enroll after the restoration of coverage.~~ (1-25-95)

0982. -- 999. (RESERVED).

IDAPA 18 - DEPARTMENT OF INSURANCE
18.01.70 - RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH
INSURANCE AVAILABILITY ACT PLAN DESIGN

DOCKET NO. 18-0170-9901

NOTICE OF TEMPORARY RULE

EFFECTIVE DATE: The effective date for this temporary rule is March 15, 1999.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. This action is authorized pursuant to Sections 41-211 and 41-4715, Idaho Code.

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

On March 15, 1999, the Idaho Supreme Court ruled that the cap on reimbursement for chiropractic services contained in the current rule violates the equal protection clauses of the state and federal constitutions. The proposed amendment removes the cap on chiropractic services and imposes a cap on reimbursement for certain types of medical services regardless of who provides the services.

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

Compliance with governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary rule, contact Joan Krosch, Health Insurance Coordinator for the Department of Insurance, at (208) 334-4250.

Dated this 14th day of June, 1999.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250

THE FOLLOWING IS TEXT OF DOCKET NO. 18-0170-9901

016. LIMITATIONS AND EXCLUSIONS.

01. Services Not Medically Necessary. Excluded. Any service not medically necessary or appropriate unless specifically included within the coverage provisions. (1-25-95)

02. No Coverage. Custodial, convalescent or intermediate level care or rest cures. (1-25-95)

03. Experimental Or Investigational. Services which are experimental or investigational. (1-25-95)

04. Workers' Compensation, Medicare, CHAMPUS. Services eligible for coverage by Workers'

Compensation, Medicare or CHAMPUS. (1-25-95)

05. No Charges. Services for which no charges are made or for which no charges would be made in the absence of insurance or for which the insured has no legal obligation to pay. (1-25-95)

06. No Medical Diagnosis. Services for weight control, nutrition, and smoking cessation, including self-help and training programs as well as prescription drugs, used in conjunction with such programs and services. (7-1-98)

07. Cosmetic Surgery. Cosmetic surgery and services, except for treatment for non-congenital injury or surgery. Mastectomy reconstruction is covered if within two (2) years of mastectomy. (1-25-95)

08. Artificial Insemination, Infertility, Sexual Dysfunction. Artificial insemination and infertility treatment. Treatment of sexual dysfunction not related to organic disease. (1-25-95)

09. Induced Infertility. Services for reversal of elective, surgically or pharmaceutically induced infertility. (1-25-95)

10. Vision. Vision therapy, tests, glasses, contact lenses and other vision aids. Radial keratotomy, myopic keratomileusis and any surgery involving corneal tissue to alter or correct myopia, hyperopia or stigmatic error. Vision tests and glasses will be covered for children under the age of twelve (12), except in catastrophic health benefit plans. (7-1-98)

11. Limitation Foot Care. For treatment of weak, strained, or flat feet, including orthopedic shoes or other supportive devices, or for cutting, removal, or treatment of corns, calluses, or nails other than corrective surgery, or for metabolic or peripheral vascular disease. (7-1-98)

12. ~~Spinal Manipulation.~~ Chiropractic services Manipulative Therapy And Related Treatment. Manipulative therapy and related treatment, including heat treatments and ultrasound, of the musculoskeletal structure for other than fractures and dislocations of the extremities will be subject to one thousand dollars (\$1,000) per year limit, subject to the policy deductible, and co-insurance, or co-payment. ~~(6-30-95)~~(3-15-99)T

13. Dental, Orthodontic Services. (7-1-98)

a. For Basic and Standard plans: Dental and orthodontic services, except those needed for treatment of a medical condition or injury or as specifically allowed in the policy for children under the age of twelve (12). (7-1-98)

b. For Catastrophic plans: Dental care or treatment, except for injury sustained while insured under this policy, or as a result of nondental disease covered by the policy. (7-1-98)

14. Hearing Tests. Hearing tests without illness being suspect. (1-25-95)

15. Hearing Aids, Supplies. Hearing aids and supplies, tinnitus maskers, cochlear implants and exams for the prescription or fitting of hearing aids. (1-25-95)

16. Speech Tests. Speech tests and therapy except as specifically allowed in the policy for children under the age of twelve (12). (1-25-95)

17. Private Room Accommodation Charges. Private room accommodation charges in excess of the institution's most common semi-private room charge except when prescribed as medically necessary. (1-25-95)

18. Services Performed By A Member Of The Insureds Family. Services performed by a member of the insured's family or of the insured's spouse's family. Family includes parents or grandparents of the insured or spouse and any descendants of such parents or grandparents. (1-25-95)

19. No Coverage Prior To Effective Date Of Coverage. Care incurred before the effective date of the

person's coverage. (1-25-95)

20. Covered Injury Or Disease. Immunizations and medical exams and tests of any kind not related to treatment of covered injury or disease, except as specifically stated in the policy. (1-25-95)

21. Act Of War Or Armed Conflict. Injury or sickness caused by war or armed international conflict. (1-25-95)

22. Operation And Treatment, Sexual Change. Sex change operations and treatment in connection with transsexualism. (1-25-95)

23. Counseling. Marriage and family and child counseling except as specifically allowed in the policy. (1-25-95)

24. Acupuncture. (7-1-98)

a. For Basic and Standard plans: Acupuncture except when used as anesthesia during a covered surgical procedure. (7-1-98)

b. For Catastrophic plans: Acupuncture. (7-1-98)

25. Private Duty Nursing. Private duty nursing except as specifically allowed in the policy. (1-25-95)

26. Employer Maintained Medical Or Dental Care. Services received from a medical or dental department maintained by or on behalf of an employer, a mutual benefit association, labor union, trust, or similar person or group. (1-25-95)

27. Termination. Services incurred after the date of termination of a covered person's coverage except as allowed by the extension of benefits provision of the policy, if any. (7-1-98)

28. Personal Convenience Items. Expenses for personal hygiene and convenience items such as air conditioners, humidifiers, and physical fitness equipment. (1-25-95)

29. Failure To Keep A Scheduled Visit. Charges for failure to keep a scheduled visit, charges for completion of any form, and charges for medical information. (1-25-95)

30. Screening Examinations. Charges for screening examinations except as otherwise provided in the policy. (1-25-95)

31. No Allowance. Charges for wigs or cranial prostheses, hair analysis, hair loss and baldness. (1-25-95)

32. Preexisting Conditions. Pre-existing conditions, except as provided specifically in the policy. (1-25-95)

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.73 – RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE
AVAILABILITY ACT PLAN DESIGN

DOCKET NO. 18-0173-9901

NOTICE OF TEMPORARY RULE

EFFECTIVE DATE: The effective date for this temporary rule is March 15, 1999.

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. This action is authorized pursuant to Sections 41-211 and 41-5211, Idaho Code.

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

On March 15, 1999, the Idaho Supreme Court ruled that the cap on reimbursement for chiropractic services contained in the current rule violates the equal protection clauses of the state and federal constitutions. The proposed amendment removes the cap on chiropractic services and imposes a cap on reimbursement for certain types of medical services regardless of who provides the services.

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

Compliance with governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this temporary rule, contact Joan Krosch, Health Insurance Coordinator for the Department of Insurance, at (208) 334-4250.

Dated this 14th day of June, 1999.

Mary L. Hartung, Director
Idaho Department of Insurance
700 West State Street - 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Telephone No. (208) 334-4250

THE FOLLOWING IS TEXT OF DOCKET NO. 18-0173-9901

011. LIMITATIONS AND EXCLUSIONS.

01. Not Medically Necessary. Any service not medically necessary or appropriate unless specifically included within the coverage provisions. (6-30-95)

02. Custodial, Convalescent, Intermediate. Custodial, convalescent or intermediate level care or rest cures. (6-30-95)

03. Experimental, Investigational. Services which are experimental or investigational. (6-30-95)

- 04. Workers Compensation, Medicare Or CHAMPUS.** Services eligible for coverage by Workers' Compensation, Medicare or CHAMPUS. (6-30-95)
- 05. No Charges, No Legal Obligation To Pay.** Services for which no charges are made or for which no charges would be made in the absence of insurance or for which the insured has no legal obligation to pay. (6-30-95)
- 06. No Medical Diagnosis.** Services for weight control, nutrition, and smoking cessation, including self-help and training programs, as well as prescription drugs used in conjunction with such programs and services. (7-1-98)
- 07. Cosmetic Surgery.** Cosmetic surgery and services, except for treatment for non-congenital injury or surgery. Mastectomy reconstruction is covered if within two (2) years of mastectomy. (6-30-95)
- 08. Artificial Insemination And Infertility Treatment.** Artificial insemination and infertility treatment. Treatment of sexual dysfunction not related to organic disease. (6-30-95)
- 09. Reversal Of Elective Infertility.** Services for reversal of elective, surgically or pharmaceutical induced infertility. (6-30-95)
- 10. Vision Therapy.** Vision therapy, tests, glasses, contact lenses and other vision aids. Radial keratotomy, myopic keratomileusis and any surgery involving corneal tissue to alter or correct myopia, hyperopia or stigmatic error. (6-30-95)
- 11. Weak, Strained, Or Flat Feet.** For treatment of weak, strained, or flat feet, including orthopedic shoes or other supportive devices, or for cutting, removal, or treatment of corns, calluses, or nails other than corrective surgery, or for metabolic or peripheral vascular disease. (6-30-95)
- 12. ~~Spinal Manipulation.~~ Chiropractic services Manipulative Therapy And Related Treatment. Manipulative therapy and related treatment, including heat treatments and ultrasound, of the musculoskeletal structure for other than fractures and dislocations of the extremities will be subject to one thousand dollars (\$1,000) per year limit, subject to the policy deductible, and co-insurance, or co-payment. (~~6-30-95~~)(3-15-99)T**
- 13. Dental And Orthodontic Services.** (7-1-98)
- a. For Basic and Standard plans: Dental and orthodontic services, except those needed for treatment of a medical condition or injury or as specifically allowed in the policy for children under the age of twelve (12). (7-1-98)
- b. For Catastrophic plans: Dental care or treatment, except for injury sustained while insured under this policy, or as a result of nondental disease covered by the policy. (7-1-98)
- 14. Hearing Tests.** Hearing tests without illness being suspect. (6-30-95)
- 15. Hearing Aids.** Hearing aids and supplies, tinnitus maskers, cochlear implants and exams for the prescription or fitting of hearing aids. (6-30-95)
- 16. Excludes.** Speech tests and therapy. (6-30-95)
- 17. Private Room.** Private room accommodation charges in excess of the institution's most common semi-private room charge except when prescribed as medically necessary. (6-30-95)
- 18. Services Performed By A Member Of Family.** Services performed by a member of the insured's family or of the insured's spouse's family. Family includes parents or grandparents of the insured or spouse and any descendants of such parents or grandparents. (6-30-95)
- 19. Prior To Effective Date.** Care incurred before the effective date of the person's coverage.

- (6-30-95)
- 20. Immunizations And Medical Exams And Tests.** Immunizations and medical exams and tests of any kind not related to treatment of covered injury or disease, except as specifically stated in the policy. (6-30-95)
- 21. Injury Or Sickness.** Injury or sickness caused by war or armed international conflict. (6-30-95)
- 22. Sex Change Operations.** Sex change operations and treatment in connection with transsexualism. (6-30-95)
- 23. Marriage and Family Counseling.** Marriage and family and child counseling except as specifically allowed in the policy. (6-30-95)
- 24. Acupuncture.** (7-1-98)
- a. For Basic and standard plans: Acupuncture except when used as anesthesia during a covered surgical procedure. (7-1-98)
- b. For Catastrophic plans: Acupuncture. (7-1-98)
- 25. Private Duty Nursing.** Private duty nursing except as specifically allowed in the policy. (6-30-95)
- 26. Medical Services Received From Employer, Labor Union Association.** Services received from a medical or dental department maintained by or on behalf of an employer, a mutual benefit association, labor union, trust, or similar person or group. (6-30-95)
- 27. Termination.** Services incurred after the date of termination of a covered person's coverage, except as allowed by extension of benefits provision in the policy, if any. (7-1-98)
- 28. Personal Hygiene And Convenience Items.** Expenses for personal hygiene and convenience items such as air conditioners, humidifiers, and physical fitness equipment. (6-30-95)
- 29. Failure To Keep A Scheduled Visit.** Charges for failure to keep a scheduled visit, charges for completion of any form, and charges for medical information. (6-30-95)
- 30. Screening Examinations.** Charges for screening examinations except as otherwise provided in the policy. (6-30-95)
- 31. Wigs Or Hair Loss.** Charges for wigs or cranial prostheses, hair analysis, hair loss and baldness. (6-30-95)
- 32. Pre-Existing Conditions.** Pre-existing conditions, except as provided specifically in the policy. (6-30-95)

IDAPA 22 - BOARD OF MEDICINE

**22.01.01 - RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE
AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY**

DOCKET NO. 22-0101-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-1806(2)(11) and Section 54-1806A, 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 address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Proposed rules will establish annual continuing medical education (CME) requirements for physicians to increase/maintain current medical education of physicians so that public safety and protection may be enhanced. Rules will require 20 hours of Category I and 30 hours of Category II continuing medical education annually and compliance to requirement will be reported on application for annual license renewal.

FEE SUMMARY: Rule changes do not impose any fee increases.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the text of the proposed rules will be sent to all currently licensed physicians for comment prior to the final approval of the proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Darleene Thorsted at 334-2822.

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

DATED this 23rd day of June, 1999.

Darleene Thorsted
Executive Director
Idaho State Board of Medicine
280 North 8th Street
PO Box 83720
Boise, ID 83720-0058
Phone: (208) 334-2822 Fax: 208-334-2801

THE FOLLOWING IS TEXT OF DOCKET NO. 22-0101-9901

080. --099: (RESERVED) CONTINUING MEDICAL EDUCATION.

01. Active License Holders. Every year, each person holding an active license to practice medicine in this State shall complete fifty (50) credit hours of continuing medical education (CME), twenty (20) hours of which shall be in Category 1. ()

02. Physicians Exempt From CME Requirements. The following physicians shall be exempt from these CME requirements: ()

a. Physicians who are initially licensed by the Board and who have not renewed their licenses for the first time. ()

b. Physicians who hold an inactive license, and retired physicians who hold an active license; however, physicians who have had their license suspended or in some other way restricted by the Board shall meet the requirements unless otherwise stipulated by Board order. ()

c. Physicians specifically exempted from this requirement by the Board due to cases of hardship, disability, illness, military service or other circumstances as the Board deems appropriate if supported by adequate documentation submitted to and acceptable to the Board. ()

03. Category 1. All Category 1 programs will be identified as such by the approved sponsoring or co-sponsoring organization. ()

04. Category 2. Category 2 activities include CME programs with non-accredited sponsorship, medical teaching, papers, publications, books, presentations or exhibits, non-supervised individual CME activities, staff meetings and other meritorious learning experiences. ()

05. Credit Hours Allowed For Each Clock Hour. One (1) hour of credit will be allowed for each clock hour of participation in approved continuing medical education activities. ()

06. Approved Continuing Medical Education Activities. Approved continuing medical education activities include the following: ()

a. Internship, residency or fellowship in a teaching institution approved by the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. ()

i. One (1) credit hour may be claimed for each full day of training. ()

ii. No other credit may be claimed during the time a physician is in full-time training in an accredited program. ()

iii. Less than full-time study may be claimed on a pro-rata basis. ()

b. Education for an advanced degree in a medical or medically related field in a teaching institution approved by the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. ()

i. One (1) credit hour may be claimed for each full day of training. ()

ii. Less than full time study may be claimed on a pro-rata basis. ()

c. Full-time research in a teaching institution approved by the American Medical Association or the Association of American Medical Colleges or the American Osteopathic Association. ()

i. One (1) credit hour may be claimed for each full day of research. ()

- ii. Less than full-time study may be claimed on a pro-rata basis. ()
 - d. Education certified as Category 1 by an organization accredited by the Accreditation Council on Continuing Medical Education such as, but not limited to: ()
 - i. AMA (American Medical Association) Category 1 credit; ()
 - ii. AOA (American Osteopathic Association) Category 1 credit. ()
 - iii. AAFP (American Academy of Family Physicians) Prescribed credit; ()
 - iv. ACOG (American College of Obstetricians and Gynecologists) Cognates, Category 1; ()
 - v. ACEP (American College of Emergency Physicians) Category 1. ()
 - e. Medical educational programs designed to provide necessary understanding of current developments, skills, procedures or treatments related to the practice of medicine, provided by organizations or institutions that have not been accredited by the Accreditation Council on Continuing Medical Education. ()
 - f. Serving as an instructor for medical students, house staff, other physicians or allied health professionals from a hospital or institution with a formal training program, where the instruction activities are such as will provide the licensee with the necessary understanding of current developments, skills, procedures or treatments related to the practice of medicine. ()
 - g. Publication or presentation of a medical paper, report, book, that is authored and published and deals with the current developments, skills, procedures, or treatments related to the practice of medicine. ()
 - i. Credits may be claimed only once for materials presented and credits may be claimed for the date of publication or presentation. ()
 - ii. One (1) credit hour may be reported per hour of preparation, writing and/or presentation. ()
 - h. Credit hours may be earned for any of the following activities which provide the necessary understanding of current developments, skills, procedures or treatments related to the practice of medicine: ()
 - i. Completion of a medical education program based on self-instruction which utilized videotapes, audiotapes, films, filmstrips, slides, radio broadcasts, and computers; ()
 - ii. Independent reading of scientific journals and books; ()
 - iii. Preparation for specialty Board certification or recertification examinations; ()
 - iv. Participation on a staff committee or quality of care or utilization review in a hospital or institution or government agency. ()
- 07. Licensee Responsibility.** It is the responsibility of the licensee to verify approval with the source of the program, not with the Board, and licensee should verify approval before taking the course. ()
- 08. Certify Continuing Medical Education Requirements With Application For Renewal.** Each year, with the application for renewal of an active license to practice medicine in this State, the Board will include a form which requires the person holding the license to certify by signature, under penalty of perjury, that he or she has met the continuing medical education requirements. ()
- a. In addition, the Board may randomly require physicians submitting such a certification to demonstrate, prior to renewal of license, documentation of the continuing medical education requirements stated in his or her certification. ()

09. Record Of Attendance. Each licensed physician who must meet these requirements shall maintain a record of attendance and the supporting documents for continuing medical education for a period of three (3) years from the date of attendance or participation. ()

a. At a minimum, the following must be documented and recorded: ()

i. Name of provider: ()

ii. Name of program: ()

iii. Hours of continuing education Units completed: ()

iv. Date of completion: ()

v. Evidence of AMA Category 1 credit or AOA Category 1 credit or other documentation to support the number of credits completed or earned. ()

10. Continuing Medical Education Credits. Continuing medical education credits may not be carried over from one (1) reporting period to another and must be completed or earned within the reporting period as specified on the annual renewal form. ()

11. Failure To Comply With Continuing Medical Education Requirements. Failure to comply with the continuing medical education requirement or making false statements or misrepresentations on the renewal form will be grounds for discipline under Section 54-1814(2), Idaho Code. ()

081. -- 099. (RESERVED).

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.19.01 - RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS
DOCKET NO. 24-1901-9901

NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 27, 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 54-4205, 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: Establish that the examination will be administered on the second Tuesday in January, April, July and October of each year.

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: Confer a benefit to applicants by providing an additional two times per year when the examination will be available.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Dee Ann Randall, (208) 334-3233.

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 4th day of June, 1999.

Dee Ann Randall
Owyhee Plaza
1109 Main Street, Suite 220
Boise, Idaho 83702
(208) 334-3233
(208) 334-3945 (FAX)

THE FOLLOWING IS TEXT OF DOCKET NO. 24-1901-9901

300. EXAMINATIONS (Rule 300).

01. Application And Deadline Date For Filing. An application for examination must be accompanied by the examination fee and proof of completion of approved curriculum. Applications must be received at least thirty (30) days prior to the date of examination. (7-1-98)

02. Individuals Who Have Special Needs. Individuals who have special needs as defined by the

American Disabilities Act must specify those needs or required services as indicated on the application form.

(7-1-93)

03. Dates Of Exams. Examinations will be administered ~~semi-annually~~ on the second Tuesday in ~~January, April, July,~~ and October of each year at times and locations to be set by the board. ~~(7-1-98)~~(4-27-99)T

04. Contents Of Exam. The examination will consist of two (2) sections. (7-1-93)

a. Section One will include questions from all or some of the following topics: (7-1-98)

i. Business Planning and Marketing. (7-1-93)

ii. Fiscal Planning and Management. (7-1-93)

iii. Human Resource Planning. (7-1-93)

iv. Residential Health Services. (7-1-93)

v. Nutrition and Food Service. (7-1-93)

vi. Working with the Elderly. (7-1-93)

vii. Working with the Mentally Ill. (7-1-93)

viii. Social and Recreational Activities. (7-1-93)

ix. Legal Issues. (7-1-93)

x. Licensing Process. (7-1-93)

xi. Housekeeping. (7-1-93)

xii. Physical Maintenance and Fire Safety. (7-1-93)

xiii. Developmentally Disabled. (7-1-98)

b. Section Two will include questions from the Idaho Board and Care Act, Chapter 33, Title 39, Idaho Code and the Idaho Department of Health and Welfare rules promulgated thereunder and appearing at Title 3, Chapter 21. (7-1-93)

05. Passing Score On Exam. An examination is passed by obtaining a score of seventy percent (70%) or better on each section. Applicants who fail to pass one (1) section of the examination must retake and pass that section within two (2) years from the date of the first examination or the application file will be terminated without further notice to the applicant, and the applicant will be required to begin the process as a new applicant except that no further temporary permits will be granted. (7-1-98)

06. Requirements For Retakes. There will be a seventy-five dollar (\$75) fee for retakes of any or all portions of the examination. Individuals desiring to be reexamined must file a letter of intent, together with the appropriate fee, with the board. The letter and fee must be received by the Bureau at least thirty (30) days prior to examination. (7-1-93)

IDAPA 31 - PUBLIC UTILITIES COMMISSION

31.71.01 - RAILROAD CLEARANCE RULES

DOCKET NO. 31-7101-9901

NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given of the Idaho Public Utilities Commission's proposed rulemaking. This action is authorized pursuant to Section 67-5230, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be scheduled only if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, no later than August 18, 1999.

The hearing site will be accessible to persons with disabilities. Request for accommodations must be made no later than five (5) days prior to the hearing, to the Commission's address set out below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rules:

To lower the minimum vertical clearance required over railroad tracks from 23 feet 6 inches (23' 6") to "the vertical clearance required by the owner of the railroad tracks or 22 feet 6 inches (22' 6"), whichever is greater".

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01, informal negotiated rulemaking was conducted.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rules, contact Weldon B. Stutzman, Deputy Attorney General at (208) 334-0318.

DEADLINE FOR WRITTEN COMMENTS: Anyone may submit written comments regarding these proposed rules. All written comments and data concerning the proposed rules must be delivered to the Commission Secretary at the address identified above or must be postmarked on or before August 25, 1999. Persons desiring to comment are encouraged to submit written comments at their earliest convenience rather than wait until the comment deadline.

DATED this 22nd day of June 1999.

Myrna J. Walters
Commission Secretary
Idaho Public Utilities Commission
PO Box 83720
Boise, ID 83702-5983
Telephone: (208) 334-0338
FAX: (208) 334-3762

Street Address for Express Mail:
472 West Washington Street
Boise, ID 83720-0074

THE FOLLOWING IS TEXT OF DOCKET NO. 31-7101-9901

201. OVERHEAD CLEARANCE IN GENERAL (Rule 201).

The allowable clearances are:

(7-1-93)

01. Begun, Installed Or Constructed After April 1, 1955. For structures, operating appurtenances, pole lines, service facilities and track arrangements begun, installed or constructed after April 1, 1955, and before September 1, 1980 twenty-two feet six inches (22'6"). (7-1-93)

02. Begun, Installed Or Constructed After September 1, 1980. For structures, operating appurtenances, pole lines, service facilities and track arrangements begun, installed or constructed after September 1, 1980, the vertical clearance required by the owner of the railroad tracks or twenty-three two feet six inches (23²'6"), whichever is greater. (7-1-93)()

03. Structures On Main Lines. For structures on main lines identified by railroad for possible electrification: (7-1-93)

a. At twenty-five (25) kilovolts twenty-four feet three inches (24'3"); or (7-1-93)

b. At fifty (50) kilovolts twenty-six (26') feet. (7-1-93)

IDAPA 35 - STATE TAX COMMISSION
35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0102-9901
NOTICE OF TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: This temporary rule is effective July 1, 1999.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 63-105A and 63-3624, 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 address below.

DESCRIPTIVE SUMMARY: The following is a non-technical explanation of the substance and purpose of the proposed rule-making:

Sales Tax Rule 130. This rule is being promulgated to clarify procedures for Section 63-3620C, Idaho Code, which was enacted by 1999 legislation. Promoters of certain types of events are required to check for Seller's Permits for participating vendors and to issue temporary permits when necessary. This law becomes effective July 1, 1999.

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:

Statutory timing of the program requires the rule be adopted as a temporary rule.

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

Not Applicable.

NEGOTIATED RULE-MAKING: Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jim Husted, at (208) 334-7530.

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 August 25, 1999.

DATED this 23rd day of June, 1999.

Jim Husted, Tax Policy Specialist
State Tax Commission
800 Park, Plaza IV, P.O. Box 36
Boise, ID 83722
(208) 334-7530
FAX (208) 334-7844

THE FOLLOWING IS TEXT OF DOCKET NO. 35-0102-9901

128. - ~~99~~129. (RESERVED).

130. PROMOTER SPONSORED EVENTS (Rule 130).

Promoters at promoter sponsored events, as defined in Section 63-3620C, Idaho Code, shall within ten (10) days following the beginning of the event, forward to the State Tax Commission a completed Form ST-124 for each exhibitor participating in the event. This form shall include: ()

01. Promoter Information. The name of the promoter sponsoring the event, the name of the event, the event location, and the dates of the event. ()

02. Exhibitors Participating In Event. The names, addresses, and phone numbers of the exhibitors participating in the event. ()

03. Identification Number. Either the exhibitor's federal employer identification number or social security number. ()

04. Seller's Permit Number. The exhibitor's seller's permit number or a statement that the exhibitor is not making taxable sales. ()

05. Copy Of Temporary Seller's Permit. Copies of temporary seller's permits assigned by the promoter, if any. ()

06. Other Information. Other information may be required if deemed necessary by the State Tax Commission. ()

131. - 999. (RESERVED).

IDAPA 35 - STATE TAX COMMISSION
35.01.04 - IDAHO ESTATE AND TRANSFER TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0104-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 63-105, 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 address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Estate and Transfer Rule 015 is being amended to update provisions on electronic funds transfer pursuant to Section 67-2026 and 67-2026A, Idaho Code. Appendix A and B attached and referred to in these rules are no longer necessary and are being deleted.

Estate and Transfer Rule 017 is being amended to refer to the State Tax Commission's Administrative and Enforcement Rules for the current rate of interest on refunds as provided in Section 63-3045, Idaho Code.

Estate and Transfer Rule 019 is being amended to update the reference to the State Tax Commission's Administration and Enforcement Administrative Rules.

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

No fees applicable.

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed change is of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact James Husted, at (208) 334-7530.

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 August 25, 1999.

DATED this 23rd day of June, 1999.

James Husted, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722
Phone: (208) 334-7530
FAX: (208) 334-7844

THE FOLLOWING IS TEXT OF DOCKET NO. 35-0104-9901

015. DATE PAYMENT DUE--DATE DEEMED RECEIVED--INTEREST--ELECTRONIC TRANSFER OF FUNDS (Rule 015).

01. Estimated Final Credit. An estate which has an approved time payment for federal estate taxes shall be required to remit only the estimated final amount of federal credit that will be available after taking into consideration the interest deductions that will be allowed as administrative expenses during the extended payment schedule. The Commission may adjust the estimated final credit amount and bill or refund an amount to the estate at the time of remittance. (7-1-93)

a. Upon final payment to the Internal Revenue Service and the final adjustment to the federal credit, settlement will be made with the Commission which may be payment or refund with applicable interest. (7-1-93)

b. It is recognized that no one will be able to exactly estimate the final federal credit prior to the extended payments due to the variable interest rate the Internal Revenue Service uses. Therefore; there shall be no penalties imposed if a good faith estimate ultimately is found to be an underpayment, though statutory interest will be assessed. (7-1-93)

02. Extended Payment. Extended payment of the state tax will only be approved for good cause such as, the need of a sacrifice sale of assets. The number of years for extended payment will be determined by the Commission on an individual basis, but in no case be longer than fourteen (14) years from the date the tax was due. (7-1-93)

a. Any agreement for extended payment is conditional until such time as the estate enters into a written contractual agreement with the Commission, wherein the distributee agrees to: terms of payment including total period of extension, periodic payments, and interest thereon; waiver of all statutes of limitations for the assessment or collection of the estate tax until such tax is paid in full; that unpaid estate taxes including interest shall remain a lien upon the property passed or transferred until all taxes and interest owing are paid in full and; provisions in case of default by the distributee. (7-1-93)

b. The Commission may file a lien in the real property records of the county wherein the property is located and such other places as may be necessary to protect the Commission's interest. (7-1-93)

03. Loss Of Valuation. A credit that is increased due to an increase in federal taxable estate caused by the loss of special use valuation is payable within six (6) months of the date the property ceased to qualify for the special use valuation. (7-1-93)

04. Interest. Interest will accrue on tax beginning six (6) months after the date of disposition or date qualified use ceased. (7-1-93)

05. Electronic Funds Transfer. All taxes due the state must be paid by electronic funds transfer whenever the amount due is one hundred thousand dollars (\$100,000) or greater, in accordance with ~~rules promulgated by the Idaho State Board of Examiners, a copy of which is appended to these rules Sections 67-2026 and 67-2026A, Idaho Code.~~ Sections 67-2026 and 67-2026A, Idaho Code. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

017. REFUND FOR OVERPAYMENTS (Rule 017).

~~Interest on refunds accrues at the annual rate of twelve percent (12%) simple interest from the day the tax was paid to the Commission to the day the refund is paid. As of January 1, 1994, the rate of interest on refunds is determined~~

annually as provided in Section 63-3045, Idaho Code and Idaho Tax Commission Administration and Enforcement Rule 310. Simple interest shall accrue from the day the tax was paid to the Commission to the day the refund is paid.
(7-1-93)(____)

(BREAK IN CONTINUITY OF SECTIONS)

019. REFERENCE TO RELEVANT INCOME TAX AND ADMINISTRATION AND ENFORCEMENT RULES (Rule 019).

01. Income Tax And Administration And Enforcement Rules. All Income Tax and Administration and Enforcement Rules promulgated by the Commission for collection, enforcement, and administration of the code sections incorporated by reference in Section 14-412, Idaho Code, apply to the administration and enforcement of the estate and transfer tax.
(7-1-93)(____)

02. References. References to income tax in the Income Tax and Administration and Enforcement Rules referred to in this rule shall be described as references to estate and transfer tax for purposes of these rules.
(7-1-93)(____)

APPENDIX A
ELECTRONIC FUNDS TRANSFER

REGULATION 21.A.18. Requirements for Electronic Funds Transfer of Tax Payments. [Effective 8/29/88]

~~Electronic Fund Transfer (EFT) means any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account.~~

~~All tax payments due the state must be paid by electronic funds transfer whenever the amount is one hundred thousand dollars (\$100,000) or greater. If the due date falls on Saturday, Sunday, or legal holiday, the payment by electronic funds transfer may be made on the first business day thereafter.~~

~~The method of payment does not change any current filing requirements of the written tax forms. If the electronic funds transfer is not made and the written tax return is not filed by the tax due date, the appropriate late filing penalties and interest will apply.~~

~~The electronic funds transfer must be initiated in a timely fashion to ensure receipt of the payment in good, collected funds by the state treasurer's account by the due date.~~

REGULATION 21.A.19. Information Required When Making Electronic Funds Transfers. [Effective 8/13/90]

~~In order to initiate an EFT payment, the following information is required:~~

- ~~a. Taxpayer's name~~
- ~~b. Taxpayer's identification number (see attached Table 1)~~
- ~~e. Tax type identification number (see attached Table 1)~~
- ~~d. Amount of payment due~~
- ~~e. Due date~~
- ~~f. Name and account of correspondent bank~~

- g. Name of receiving bank (contact the Treasurer's Office for a current list of banks)
- h. Account number of treasurer's account at that bank (contact the Treasurer's Office for current account numbers)
- i. American Bank Association 9 digit number of receiving bank (contact the Treasurer's Office for current numbers)

The name of the receiving bank and EFT verification number must be included with the written tax return.

APPENDIX B
TABLE 1

TAX TYPE NAME	TAX TYPE CODE	TAXPAYER IDENTIFICATION NUMBER
Beer Tax	06316	Permit No. (9 digits)
Cigarette Tax	07215	Permit No. (9 digits)
Corporate Income Tax	02005	Employer ID. No. (EIN) (9 digits)
Estate Tax	20310	Permit Number (9 digits)
Greater Boise Auditorium Dist Hotel/Motel Tax	04812	Permit No. (9 digits)
HFTA	05931	Permit No. (9 digits)
Individual Income Tax	01001	Social Security No. (SSN) (9 digits)
Insurance Premium Tax	07170	Certificate of Authority (4 digits)
Kilowatt Hour Tax	20219	Employer ID. No. (EIN) (9 digits)
Mileage Tax (Ton Mile)	20180	Account No. (6 digits)
Mine License Tax	10318	EIN/SSN (9 digits)
Motor Fuels Tax Gasoline (Includes aviation and gasohol)	05023	License No. (9 digits)
Motor Fuels Tax Special Fuels Tax	05222	EIN/SSN (9 digits)
Motor Fuels Tax Motor Carrier	05327	Permit No. (9 digits)
Sales and Use Tax	04008	Permit No. (9 digits)
Tobacco Tax	07313	Permit No. (9 digits)
Travel and Convention Tax	07411	Permit No. (9 digits)
Unemployment Insurance Tax	13090	Employer Account No. (10 digits)
Wine Tax	06217	Permit No. (6 digits)
Withholding Tax	01109	Permit No. (9 digits)

IDAPA 35 - STATE TAX COMMISSION
35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0110-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 63-105, 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 address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Cigarette and Tobacco Tax Rule 018 is being amended to implement the requirement in Section 39-7808(j), Idaho Code, that the State Tax Commission ascertain the amount of tax paid on cigarettes manufactured by manufacturers who are not participants in the "Master Settlement Agreement" settling litigation between several states, including Idaho, and cigarette manufacturers.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed change is of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact James Husted at (208) 334-7530.

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 August 25, 1999.

DATED this 23rd day of June, 1999.

James Husted, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722
Phone: (208) 334-7530
FAX: (208) 334-7844

THE FOLLOWING IS TEXT OF DOCKET NO. 35-0110-9901

018. CIGARETTE TAX RETURN (Rule 018).

01. Cigarette Tax Return. All cigarette wholesalers required to affix Idaho stamps to cigarettes, or who make sales to U.S, military or Indians on reservations, or who have a stamping warehouse or business located

within this state and sell cigarettes in interstate commerce are required to file an Idaho cigarette tax return. (7-1-93)

02. Filing Returns. The return shall be in a form prescribed by the Commission and shall be filed on a monthly basis. (7-1-93)

03. Due Date. The return will be filed by the wholesaler on or before the twentieth (20th) day of the month immediately following the month to which the return applies. If the twentieth (20th) day falls on a Saturday, Sunday, or legal holiday, the return shall be due on the next following day which is not a Saturday, Sunday, or legal holiday. (7-1-93)

04. Requirements Of A Valid Return. A tax return or other documents required to be filed in accordance with Section 63-2510, Idaho Code, and this rule must meet the conditions prescribed below. Those which fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be redone in accordance with these requirements and refiled. A taxpayer who does not file a valid return will be considered to have filed no return. A taxpayer's failure to properly file in a timely manner may cause certain penalties to be imposed by Sections 63-3030A, 63-3046, and 63-3075, Idaho Code, and rules thereunder. (7-1-93)

a. All cigarette tax return forms must be completed and copies of all pertinent supporting schedules or computations must be attached. The results of supporting computations must be carried forward to applicable lines on the cigarette tax return form. (7-1-93)

b. All cigarette tax returns or other documents filed by the taxpayer must include his cigarette wholesaler's permit number and Federal Taxpayer Identification Number in the space provided. (7-1-93)

c. A cigarette return that does not provide sufficient information to compute a tax liability does not constitute a valid cigarette tax return. (7-1-93)

d. Perfect accuracy is not a requirement of a valid return, even though each of the following conditions is required: it must be on the proper form, as prescribed by the Commission; it must contain a computation of the tax liability and sufficient supporting information to demonstrate how that result was reached; and it must show an honest and genuine effort to satisfy the requirement of the law. (7-1-93)

05. Failure To File A Return. Any wholesaler required to file a return who fails to file such return shall be in violation of this regulation and shall be required to appear before the Commission to show cause as to why his permit should not be revoked. See Section 63-2518, Idaho Code. (7-1-93)

06. Implementation Of Tobacco Master Settlement Agreement. Chapter 78, Title 39, Idaho Code, enacted as part of the settlement agreement with several cigarette manufacturers requires non participating manufacturers to place certain funds in escrow accounts. The State Tax Commission is required to ascertain the amount of state excise tax paid on cigarettes manufactured by manufacturers that are not participating in the Master Settlement Agreement. Therefore, as part of the cigarette tax return, cigarette wholesalers must report separately the number of Idaho cigarette stamps affixed to products manufactured by manufacturers that are not participating in the Master Settlement Agreement. ()

IDAPA 35 - STATE TAX COMMISSION
35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULES
DOCKET NO. 35-0111-9901
NOTICE OF PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section(s) 63-105, 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 address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

Unclaimed Property Rule 019 is being promulgated to require payments of abandoned property over \$100,000 be made by electronic funds transfer pursuant to Sections 67-2026 and 67-2026A, Idaho Code.

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

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature, or required by legislative amendments to the Unclaimed Property Act.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact James Husted, at (208) 334-7530.

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 August 25, 1999.

DATED this 23rd day of June, 1999.

James Husted, Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P. O. Box 36
Boise, ID 83722
(208) 334-7530 FAX (208) 334-7844

THE FOLLOWING IS TEXT OF DOCKET NO. 35-0111-9901

019. PAYMENT OF ABANDONED PROPERTY (Rule 019).

All payments of abandoned property to the administrator must be paid by electronic funds transfer whenever the amount due is one hundred thousand dollars (\$100,000) or greater, in accordance with Sections 67-2026 and 67-2026A, Idaho Code. ()

IDAPA 38 - DEPARTMENT OF ADMINISTRATION
38.05.01 - RULES OF THE DIVISION OF PURCHASING
DOCKET NO. 38-0501-9801
NOTICE OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2000 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-2351 et seq., and 67-2356, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the November 4, 1998 Idaho Administrative Bulletin, Volume 98-11, pages 155 through 161.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Joanna L. Guilfooy, Deputy Attorney General, Department of Administration at (208) 332-1832.

DATED this 22nd day of June, 1999.

Joanna L. Guilfooy
Deputy Attorney General
Department of Administration
650 W. State Street, Room 100
P.O. Box 83720
Boise, ID 83720-0003
Ph: (208) 332-1832
Fax: (208) 334-2307

IDAPA 38
TITLE 05
Chapter 01

RULES OF THE DIVISION OF PURCHASING

There are no substantive changes from the proposed rule text.

**The original text was published in the Idaho Administrative Bulletin, Volume 98-11,
November 4, 1998, pages 155 through 161.**

**This rule has been adopted as Final by the Agency and is now pending
review by the 2000 Idaho State Legislature for final adoption.**

Subjects Affected Index

IDAPA 07 - DIVISION OF BUILDING SAFETY

07.01.07 - RULES GOVERNING CONTINUING EDUCATION REQUIREMENTS

Docket No. **07-0107-9901**

011. Continuing Education Requirements. 13

07.03.11 - RULES GOVERNING MANUFACTURED/MOBILE HOME LICENSING

Docket No. **07-0311-9901**

030. Manufactured Home Buyer's Information And Disclosure Form. 14

031. -- 999. (Reserved). 15

IDAPA 08 - IDAHO STATE DEPARTMENT OF EDUCATION

08.02.03 - RULES GOVERNING THOROUGHNESS

Docket No. **08-0203-9902**

109. Special Education. 17

111. Testing In The Public Schools. 23

IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT

11.02.01 - RULES OF THE IDAHO STATE BRAND BOARD

Docket No. **11-0201-9801**

034. Schedule Of Fees For The Idaho State Brand Board. 26

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO

Docket No. **16-0101-9901**

107. Incorporations By Reference. 29

859. Standards Of Performance For Municipal Solid Waste Landfills That Commenced Construction,
Reconstruction Or Modification On Or After May 30, 1991. 30

860. Emission Guidelines For Municipal Solid Waste Landfills That Commenced Construction,
Reconstruction Or Modification Before May 30, 1991. 32

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. 34

862. Emission Guidelines For Hospital/medical/infectious Waste Incinerators That Commenced
Construction Before June 20, 1996. 37

863. -- 999. (Reserved). 44

Docket No. **16-0101-9904**

008. Definitions For The Purposes Of Sections 300 Through 386. 46

107. Incorporations By Reference. 48

128. Confidential Information. 50

16.01.06 - SOLID WASTE MANAGEMENT RULES AND STANDARDS

Docket No. **16-0106-9701**

000. Legal Authority. 53

001. Title And Scope. 53

002. Written Interpretations. 54

003. Administrative Appeals. 54

004. Applicability. 54

005. Definitions.....	54
006. Abbreviations.....	57
007. Incorporation By Reference.....	58
008. Specific Applicable Requirements For Below Regulatory Concern Facilities.....	58
009. Specific Applicable Requirements For Tier I Facilities.....	58
010. Specific Applicable Requirements For Tier II Facilities.....	61
011. Specific Applicable Requirements For Tier III Facilities.....	62
012. -- 029. (Reserved).....	64
030. Application Content.....	64
031. Application Review And Approval.....	66
032. -- 033. (Reserved).....	67
034. General Siting Requirements.....	67
035. General Operating Requirements.....	67
036. Groundwater Monitoring Requirements.....	70
037. Financial Assurance Requirements.....	70
038. Closure Requirements.....	71
039. -- 049. (Reserved).....	71
050. Specific Criteria For Processing Facilities.....	71
051. -- 052. (Reserved).....	72
053. Waste Handling Operations At Incinerators And Transfer Stations.....	72
054. (Reserved).....	73
055. Non-municipal Solid Waste Landfill.....	73
056. -- 059. (Reserved).....	76
060. Corrective Action.....	76
061. -- 993. (Reserved).....	76
994. Commercial Solid Waste Siting License Fee.....	76
995. Commercial Solid Waste Siting License Application.....	77
996. -- 998. (Reserved).....	77
999. Confidentiality Of Records.....	77
16.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS	
Docket No. 16-0108-9802	
003. Definitions.....	81
553. Classification Of Water Systems.....	86
554. Certification Of Water System Operators.....	87
555. Grandparenting.....	87
556. Requirements For Certification.....	88
557. Reciprocity.....	89
558. Certificates And Renewals.....	90
559. Contracting For Services.....	90
560. Penalties.....	91
561. Suspension, Reduction Or Revocation.....	91
562. Advisory Group.....	91
Docket No. 16-0108-9901	
002. Incorporation By Reference.....	93
003. Definitions.....	94
005. General Provisions For Waivers, Variances, And Exemptions.....	100
050. Maximum Contaminant Levels And Maximum Residual Disinfectant Levels.....	101
100. Monitoring And Analytical Requirements.....	101
150. Reporting, Public Notification, Recordkeeping.....	105
151. Consumer Confidence Reports.....	105

152. -- 199. (Reserved).....	105
250. Maximum Contaminant Level Goals.....	105
300. Filtration And Disinfection.....	106
301. Enhanced Filtration And Disinfection.....	110
302. Sanitary Surveys.....	111
303. Composite Correction Program (CCP).....	111
304. -- 319. (Reserved).....	111
450. Use Of Non-centralized Treatment Devices.....	111
551. Construction Requirements For Public Water Systems.....	112
552. Operating Criteria For Public Water Systems.....	114
997. Confidentiality Of Records.....	116
16.02.10 - IDAHO REPORTABLE DISEASES	
Docket No. 16-0210-9901	
000. Legal Authority.....	117
001. Title And Scope.....	117
002. Written Interpretations.....	118
003. Administrative Appeals.....	118
004. Definitions.....	118
005. Documents Incorporated By Reference.....	121
006. -- 009. (Reserved).....	122
010. Reportable Diseases And Conditions.....	122
015. Investigation And Control Of Reportable Diseases.....	130
020. Specific Control Measures For Reportable Diseases.....	132
025. Control Of Reportable And Restrictable Diseases In Certain Facilities.....	150
996. (Reserved).....	154
998. -- 999. (Reserved).....	154
16.03.10 - RULES GOVERNING MEDICAID PROVIDER REIMBURSEMENT IN IDAHO	
Docket No. 16-0310-9902	
000. Legal Authority.....	155
002. Reimbursement Provisions For State Owned Or Operated ICF/MR Facilities.....	156
003. Administrative Appeals.....	156
004. Definitions.....	156
050. Criteria For Participation In The Idaho Title XIX Program.....	164
062. Property Reimbursement To Intermediate Care Facilities For The Mentally Retarded (ICF/MR Class).....	164
100. Reasonable Cost Principles.....	165
110. Allowable Costs.....	166
115. Nonallowable Costs.....	167
150. Related Party Transactions.....	169
151. Application.....	169
152. Exception To The Related Organization Principle.....	170
153. Sales And Rental Of Hospitals Or Extended Care Facilities.....	170
154. Interest Expense.....	170
155. -- 199. (Reserved).....	170
202. Application.....	170
203. Reporting Period.....	172
208. Reporting Forms.....	172
240. Prospective Rates For ICF/MR.....	176
241. Principle.....	176
242. Property Reimbursement.....	176

244. Efficiency Increment For ICF/MR.....	177
250. Cost Limits For Nursing Facilities.....	177
251. Principle.....	177
252. Property And Utility Costs.....	177
300. Rate Setting.....	182
301. Principle.....	183
302. Development Of The Rate.....	183
304. Treatment Of New Beds.....	185
305. Treatment Of New Facilities.....	185
306. Treatment Of A Change In Ownership.....	185
307. Distressed Facility.....	186
308. Interim Adjustments To Rates As A Result Of New Mandates.....	186
310. Special Rates.....	187
311. Phase-in Provisions.....	187
312. Oversight Committee.....	187
313. Disputes.....	188
314. Denial, Suspension, Revocation Of License Or Provisional License -- Penalty.....	188
315. -- 349. (Reserved).....	188
350. Audits.....	188
353. Standards And Requirements.....	189
354. Patient Funds.....	193
355. Drugs.....	194
356. Accounting Treatment.....	194
357. -- 399. (Reserved).....	196
401. (Reserved).....	196
16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES	
Docket No. 16-0319-9901	
000. Legal Authority.....	213
001. Title And Scope.....	213
002. (Reserved).....	213
003. Administrative Appeals.....	213
004. Waivers.....	213
005. Exemptions.....	214
006. Services Available.....	214
007. (Reserved).....	214
008. Incorporation By Reference.....	214
009. (Reserved).....	214
010. Definitions.....	214
011. -- 099. (Reserved).....	218
100. Certification.....	218
101. -- 149. (Reserved).....	220
150. Issuance Of Certificates.....	220
151. Inspections.....	222
152. -- 199. (Reserved).....	224
200. Residents' Rights.....	224
201. Uniform Assessment Criteria.....	228
202. Negotiated Service Agreement.....	228
203. Admissions.....	230
204. Resident Records.....	231
205. Resident Charges And Financial Records.....	232
206. Environmental Sanitation Standards.....	233

207. -- 427. (Reserved).....	234
428. Medication Standards And Requirements.....	234
429. -- 599. (Reserved).....	235
600. Fire And Life Safety Standards.....	235
601. -- 699. (Reserved).....	237
700. Home Construction And Physical Home Standards.....	237
701. -- 709. (Reserved).....	239
710. Requirements For Existing Homes To Be Converted To Certified Family Homes.....	240
711. -- 724. (Reserved).....	240
725. Enforcement Process.....	240
726. Enforcement Remedy Of Ban On All Admissions.....	241
727. Enforcement Remedy Of Ban On Admissions Of Residents With Specific Diagnosis.....	241
728. Enforcement Remedy Of Summary Suspension And Transfer Of Residents.....	241
729. Enforcement Remedy Of Revocation Of Certificate.....	241
730. Enforcement Remedy Of Injunction.....	242
731. Right To Sell.....	242
732. Notice Of Enforcement Remedy.....	242
733. Procedure For Hearings For Enforcement Actions Against A Certificate.....	243
734. Transfer Of Residents.....	244
735. -- 995. (Reserved).....	244
996. Administrative Provisions.....	244
997. Confidentiality Of Records.....	244
998. -- 999. (Reserved).....	244

16.03.22 - RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES IN IDAHO

Docket No. 16-0322-9901

000. Legal Authority.....	250
001. Title And Scope.....	250
002. (Reserved).....	250
003. Administrative Appeals.....	250
004. Exemptions.....	251
005. Waivers.....	251
006. Services.....	251
007. Policy.....	251
008. Incorporation By Reference.....	252
009. (Reserved).....	252
010. Definitions.....	252
011. -- 100. (Reserved).....	259
101. General Requirements For A License.....	259
102. Applications.....	260
103. Change Of Ownership.....	261
104. -- 110. (Reserved).....	262
111. Denial Of License.....	262
112. Effect Of Previous Revocation Or Denial Of A License.....	262
113. -- 124. (Reserved).....	262
125. License Requirements.....	262
126. Type Of License.....	263
127. Expiration And Renewal Of License.....	263
128. -- 135. (Reserved).....	263
136. State Licensing To Supersede Local Regulation.....	263
137. -- 149. (Reserved).....	263
150. Enforcement Process.....	263
151. -- 169. (Reserved).....	264

170. Unlicensed Facilities.....	264
171. -- 180. (Reserved).....	264
181. Inspections.....	264
182. -- 190. (Reserved).....	265
191. Complaints.....	265
192. Public Disclosure.....	266
193. -- 249. (Reserved).....	266
250. Residents' Rights.....	266
251. Notice Of Rights.....	270
252. -- 374. (Reserved).....	270
375. Administration And Administrator.....	270
376. Qualifications Of The Administrator.....	270
377. Responsibilities Of The Administrator.....	271
378. -- 396. (Reserved).....	272
397. Training Of Facility Personnel.....	272
398. Personnel Continuing Training.....	272
399. Personnel.....	273
400. Staffing Standards And Requirements.....	273
401. -- 419. (Reserved).....	274
420. Operational Standards And Procedures.....	274
421. Incidents And Complaints.....	275
422. Admission Policies.....	276
423. Admission Agreements.....	277
424. Uniform Assessment Criteria.....	278
425. Negotiated Service Agreement.....	279
426. Resident Records.....	280
427. Resident Charges And Financial Records.....	282
428. Medication Standards And Requirements.....	283
429. Activities.....	284
430. Nursing Services.....	284
431. -- 449. (Reserved).....	285
450. Food Service.....	285
451. Menu Planning.....	285
452. Modified Or Therapeutic Diets.....	286
453. Food Storage.....	286
454. Food Preparation And Service.....	287
455. Food Service Sanitation Standards.....	288
456. -- 474. (Reserved).....	288
475. Environmental Sanitation Standards.....	288
476. -- 499. (Reserved).....	290
500. Requirements For Fire And Life Safety Standards.....	290
501. Maintenance Of Equipment And Systems For Fire And Life Safety.....	293
502. -- 524. (Reserved).....	294
525. Building Construction And Physical Standards.....	294
526. Requirements For Existing Buildings To Be Converted To A Facility.....	296
527. New Construction, Additions, Alterations.....	297
528. -- 549. (Reserved).....	298
550. Requirements For Furnishing, Equipment, And Supplies.....	298
551. -- 673. (Reserved).....	298
674. Mental Health Contract Beds.....	298
675. Hourly Adult Care.....	298
676. -- 699. (Reserved).....	300

700. Specialized Care Units/facilities For Alzheimer/dementia Residents.....	300
701. -- 899. (Reserved).....	302
900. Imposition Of Enforcement Remedies.....	302
901. -- 924. (Reserved).....	303
925. Enforcement Remedy Of Ban On All Admissions.....	303
926. Enforcement Remedy Of Ban On Admissions Of Residents With Specific Diagnosis.....	303
927. Enforcement Remedy Of Civil Monetary Penalties.....	303
928. Enforcement Remedy Of Temporary Management.....	305
929. Enforcement Remedy Of Summary Suspension And Transfer Of Residents.....	307
930. Enforcement Remedy Of Provisional License.....	307
931. Enforcement Remedy Of Revocation Of License.....	307
932. Enforcement Remedy Of Injunction.....	307
933. -- 949. (Reserved).....	308
950. Right To Sell.....	308
951. Notice Of Enforcement Remedy.....	308
952. -- 969. (Reserved).....	308
970. Procedure For Hearings For Enforcement Actions Against A License.....	308
971. Transfer Of Residents.....	309
972. -- 995. (Reserved).....	309
996. Administrative Provisions.....	309
997. Confidentiality Of Records.....	309
998. -- 999. (Reserved).....	310

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.26 - MANAGED CARE REFORM ACT

Docket No. **18-0126-9901**

004. Definitions.....	312
017. Application Of "Any Willing Provider Law".....	313
018. -- 999. (Reserved).....	314

18.01.69 - RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT

Docket No. **18-0169-9901**

015. Applicability.....	315
036. Restrictions Relating To Premium Rates.....	317
046. Requirement To Insure Entire Groups.....	321
055. Application To Reenter State.....	323
060. Qualifying Previous And Qualifying Existing Coverages.....	323
067. Restrictive Riders.....	324
075. Rules Related To Fair Marketing.....	324
081. Status Of Carriers As Small Employer Carriers.....	327
082. -- 999. (Reserved).....	328

18.01.70 - RULE TO IMPLEMENT THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT PLAN DESIGN

Docket No. **18-0170-9901**

016. Limitations And Exclusions.....	329
--------------------------------------	-----

18.01.73 - RULE TO IMPLEMENT THE INDIVIDUAL HEALTH INSURANCE AVAILABILITY ACT PLAN DESIGN

Docket No. **18-0173-9901**

011. Limitations And Exclusions.....	332
--------------------------------------	-----

IDAPA 22 - BOARD OF MEDICINE**22.01.01 - RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY**Docket No. **22-0101-9901**

080. Continuing Medical Education. 336

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**24.19.01 - RULES OF THE BOARD OF RESIDENTIAL CARE FACILITY ADMINISTRATORS**Docket No. **24-1901-9901**

300. Examinations (Rule 300)..... 339

IDAPA 31 - PUBLIC UTILITIES COMMISSION**31.71.01 - RAILROAD CLEARANCE RULES**Docket No. **31-7101-9901**

201. Overhead Clearance In General (Rule 201). 341

IDAPA 35 - STATE TAX COMMISSION**35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES**Docket No. **35-0102-9901**

128. - 129. (Reserved)..... 344

130. Promoter Sponsored Events (Rule 130). 344

131. - 999. (Reserved)..... 344

35.01.04 - IDAHO ESTATE AND TRANSFER TAX ADMINISTRATIVE RULESDocket No. **35-0104-9901**

015. Date Payment Due--Date Deemed Received--Interest--Electronic Transfer Of Funds (Rule 015)..... 346

017. Refund For Overpayments (Rule 017)..... 346

019. Reference To Relevant Income Tax And Administration And Enforcement Rules (Rule 019). 347

35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULESDocket No. **35-0110-9901**

018. Cigarette Tax Return (Rule 018)..... 349

35.01.11 - IDAHO UNCLAIMED PROPERTY ADMINISTRATIVE RULESDocket No. **35-0111-9901**

019. Payment Of Abandoned Property (Rule 019). 351

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.

Citizens of your county can view all issues of the Idaho Administrative Bulletin at the county law libraries.

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VOLUME 1 - IDAPA 01 THROUGH 15

VOLUME 2 - IDAPA 16 THROUGH 19

VOLUME 3 - IDAPA 20 THROUGH 59

Subject Index

A

- ABC 81
- Abbreviations, IDAPA 16.01.06 57
- Abuse 214, 252
- Accelerated Depreciation, Nonallowable Costs 168
- Access And Authority 264
- Access And Visitation Rights, Residential And Assisted Living Facilities 267
- Access By Advocates And Representatives 227, 268
- Access To The Entire Facility, During Inspections 265
- Accessibility For Persons With Mobility And Sensory Impairments 238, 294
- Accounting Practices, Standards And Requirements 193
- Accounting Treatment 194
- Accrual Basis 156
- Accuracy Of Recording 188
- Acquired Immune Deficiency Syndrome (AIDS), Control Measures 132
- Acquisitions, Cost Of Corporate Acquisitions 168
- Act Of War Or Armed Conflict 331
- Action Level 81, 94
- Active License Holders, License To Practice Medicine 336
- Activities 214
- Activities Of Daily Living 215, 252
- Activities, Residential And Assisted Living Facilities 284
- Activity Opportunities 284
- Acupuncture 331, 334
- Additional Causes For Revocation Of Certificate 242
- Additional Licensure Requirements, Special Care Unit/Facility 300
- Additional Requirements For NM-SWLF Facilities 73
- Additional Requirements For PCS 72
- Additives, Drinking Water 114
- Adequate Care 215, 252
- Adequate Documentation 190
- Administration And Administrator, Residential And Assisted Living Facilities 270
- Administration Of The Certification Program 87
- Administrative Review Requirement 188
- Administrator 81, 252
- Administrator Availability For Complaints 275
- Admission Agreements, Residential And Assisted Living Facilities 277
- Admission Policies, Residential And Assisted Living Facilities 276
- Admission Policy, Special Care Unit/Facility 301
- Admissions, Certified Family Homes 230
- Adult 215, 253
- Adult Foster Care Home 215
- Advanced Directive 215, 253
- Advisory Group 91
- Advocate 215, 253
- Affected States 46
- Agent Notification To Small Employer Carrier 321
- Agreement To Handle Funds, Resident Funds 276
- Airborne Precautions 118
- Allowable Cost 156
- Allowable Costs, Normally Allowable 166
- Allowance, Phase II Source 46
- Alternate Analytical Techniques 104
- Alternate Living Arrangements 251
- Alzheimer's Disease And Related Dementia 253
- Ambulatory Person 215, 253
- Amebiasis, Control Measures 132
- Amortization 156
- Amount Assessment Of Civil Monetary Penalty 303
- Analytical And Monitoring Requirements 107
- Analytical Methods For Radioactivity 103
- Annual Filing Requirement 326
- Annual Samples 81, 94
- Anthrax, Control Measures 133
- Any Willing Provider Law 312
- Applicability 315
- Applicable Requirement, Emissions Units In A Tier I Source 46
- Applicable Requirements For BRC Facilities 58
- Applicable Requirements For Tier I Facilities 59
- Application 187
- Application And Deadline Date For Filing 339
- Application Content 64
- Application Content, Review And Approval Requirements For Tier I Facilities 60
- Application Content, Review And Approval Requirements For Tier II Facilities 62
- Application Content, Review And Approval Requirements For Tier III Facilities 63
- Application Content, Review and Approval Requirements For BRC Facilities 58
- Application Content, Review, And Approval Requirements For NM-SWLF Facilities 75
- Application For An Initial Certificate 219
- Application For Participation And Reimbursement 164
- Application Limitations 87
- Application Of "Any Willing Provider Law" 313
- Application Of GAAP 189
- Application Of Restrictions Related To Changes In Premium Rates 319
- Application Requirements For All Processing Facilities 71
- Application Review And Approval 66
- Application To Reenter State 323
- Application Valid For One Year 67
- Application, Cost Report 170
- Application, Provider Organization 169
- Application, Reasonable Cost Principles 165
- Applications, License For Residential And Assisted Living Facilities 260
- Appointment Of Temporary Management, Director Shall Appoint 305
- Appraisal 156
- Approved Continuing Medical Education Activities 336
- Approved Fecal Specimens 118
- Approved Laboratories 104
- Artificial Insemination And Infertility

Treatment 333
Artificial Insemination, Infertility, Sexual Dysfunction 330
Assessment 215, 253
Assets 156
Assistance 283
Assistance With Medication 235, 283
Assistance With Medications 215
Assistive Technology Devices 23
Assurances 24
Attaining Higher Certification Level 90
Audits, Objectives 188
Auto And Travel Expense 166
Automatic Fire Extinguishing System - Inspection 294
Availability Of Documents, Incorporated By Reference 252
Availability Of Referenced Material 29, 48
Availability Of Specific Referenced Material 93
Available 81
Average Daily Demand 81, 94

B

BRC Facilities 58
Backflow 81, 94
Backyard Composting 54
Bad Debts 156
Bad Debts, Payments 166
Balance Billing 313
Bank And Finance Charges 166
Basement 215, 253
Bed-Weighted Median 156
Begun, Installed Or Constructed After April 1, 1955 342
Begun, Installed Or Constructed After September 1, 1980 342
Behavior Management Programs 266
Behavioral Management 253
Beneficiaries 157
Beta Particle And Photon Radioactivity From Man-Made Radionuclides 101
Betterments 157
Bite Or Other Exposure To Rabies 118
Board 81, 94, 118
Botulism, Control Measures 133
Brucellosis, Control Measures 133
Building Construction And Physical Standards, Residential And Assist-

ed Living Facilities 294
Building Evaluation Fee, Residential And Assisted Living Facilities 261

C

Calculated Reimbursement Rate 184
Calculation Of New Bed Rate 185
Campylobacteriosis 133
Cancer, Control Measures 133
Cancers, Reportable 118
Capacity 81, 94
Capitalize 157
Care And Supervision 215, 253
Carrier 118
Case 118
Case Characteristics Other Than Age, Individual Tobacco Use, Geography And Gender - Must Have Prior Approval Of Director 318
Case Characteristics Shall Be Applied In A Uniform Manner 318
Case Mix Component 157, 184
Case Mix Index 157
Causes For Revocation Of The Certificate 241
Certificate 82, 215
Certificate Issuance 90
Certificate Renewal 90
Certificates And Renewals 90
Certification Limitations 87
Certification Of Final Closure Standards, Solid Waste 71
Certification Of Water System Operators 87
Certification Study 220
Certification, Certified Family Homes 218
Certified Family Home 215
Certified Family Home Care Agreement 216
Certified Family Home Care Provider 216
Certified Family Home Family 216
Certify Continuing Medical Education Requirements With Application For Renewal, Active License To Practice Medicine 337
Certifying Agency 216
Chancroid, Control Measures 134
Change In Premium Rate 320
Change In Rating Method 318
Change Of Management Or Ownership

171
Change Of Ownership Certification Requirements 221
Change Of Ownership, Residential And Assisted Living Facilities 261
Changes Of More Than Fifty Cents Per Patient Day In Costs 186
Charity Allowances, Nonallowable Costs 168
Chemical Restraint 216, 253
Chlamydia Trachomatis Infections, Control Measures 134
Choice Of Health Benefit Plans 321
Cholera, Control Measures 134
Cigarette Tax Return 349
Citizenship Rights 269
Classification Criteria 87
Classification Of Water Systems 86
Classification Requirement 86
Client Of The Department 216, 253
Closure Of Schools And Places Of Public Assembly 131
Closure Requirements 71
Closure Schedule 71
Cohort System 118
Collection Of Civil Monetary Penalties, Residential And Assisted Living Facilities 304
Commercial Solid Waste Facility 54
Commercial Solid Waste Siting License Application 77
Commercial Solid Waste Siting License Fee 76
Commercial Solid Waste Siting License Fee Criteria 77
Commercial Solid Waste Siting License Fee Not Refundable 77
Commercial Solid Waste Siting License Fee Scale 77
Common Ownership 157
Communicable Disease 118
Community Resources For Activities 284
Community Water System 82, 95
Compensation 157
Compensation Of Owners 167
Complaint Investigation 253
Complaint Procedures 223
Complaints, Residential And Assisted Living Facilities 265
Compliance As Condition Of Participation 156

- Compliance With Federal, State And Local Rules 67
Compliance, Recommendations 189
Composite Correction Program (CCP) 95, 111
Compositing Of Samples 82
Composting 55
Composting Of Samples 95
Computing Efficiency Increment 177
Conditions 100
Conditions Of Termination Of The Admission Agreement 230, 278
Confidential Information 50
Confidentiality 269
Confidentiality Of Records 116
Confirmation Sample 82, 95
Connection 82, 96
Connection To An Existing System 113
Consecutive Water System 104
Construction Requirements For Public Water Systems 112
Construction, Approvals 114
Consultant Fees, Nonallowable Costs 168
Consumer 82, 96
Consumer Confidence Report (CCR) 96
Consumer Confidence Reports 105
Contact 119
Contact Precautions 119
Contaminant 82, 96
Content, Statewide Testing Program 23
Contents Of Exam 340
Continued Ground Water Monitoring, Landfills 70
Continuing Education Requirements 13
Continuing Education Unit (CEU) 82
Continuing Medical Education 336
Continuing Training, Special Care Unit/Facility 301
Contracted Service, Received 166
Contracting For Services 90
Contractor Activities 87
Control 157
Control And Receipt Of Health Related Services 269
Control Of Reportable And Restrictable Diseases In Certain Facilities 150
Copy Of Rights Posted In The Facility 270
Core Elements Of The Negotiated Service Agreement, Plan Of Care, Or Individual Support Plan 228, 279
Corrective Action 76
Corrective Action Objectives 76
Cosmetic Surgery 330, 333
Cost Allowability - Regulation 169
Cost Center 157
Cost Component 157, 184
Cost Limits For Nursing Facilities 177
Cost Reimbursement System 157
Cost Report 157
Cost Report Requirements 170
Cost Statement Requirements 171
Cost Statements 157
Cost To Related Organizations 170
Costs Exempt From Limitations 185
Costs Not Related To Patient Care 158
Costs Not Related To Patient Care, Home Office Costs 170
Costs Not Related To Patient Care, Reasonable Cost Principles 165
Costs Of Additional Services 24
Costs Of Related Party Leases 176
Costs Paid By The State 24
Costs Related To Patient Care 158
Costs Related To Patient Care, Reasonable Cost Principles 165
Counseling 331
Covered Injury Or Disease 331
Credit Hours Allowed For Each Clock Hour, Continuing Medical Education 336
Criminal Offense 216, 253
Criteria For Avoiding Filtration 106, 110
Criteria For Participation In The Idaho Title XIX Program 164
Criteria, Cost Report 171
Cross Connection 82, 96
Cryptosporidiosis 135
Current Medication Orders 284
Custodial, Convalescent, Intermediate 332
Customary Charges, Normal Charges 158
Date Payment Due--Date Deemed Received--Interest-- Electronic Transfer Of Funds 346
Dates Of Exams 340
Day Care 119
Day Care Facilities 150
Day Treatment Services 158
Decision To Grant A Waiver 214
Deficiency 216, 254
Definitions 54, 81, 94, 118, 312
Definitions For The Purposes Of Sections 300 Through 387 46
Definitions, Accounting 156
Definitions, IDAPA 16.03.19 214
Definitions, IDAPA 16.03.22 252
Definitions, Section 109 17
Definitions, Section 859 31
Definitions, Section 860 32
Definitions, Section 861 34
Definitions, Section 863 37
Demographic Information 24
Denial Of Certificate 221
Denial Of License, Residential And Assisted Living Facilities 262
Denial, Suspension, Revocation Of License Or Provisional License -- Penalty 188
Dental And Orthodontic Services 333
Department 82, 96, 119, 158, 216
Departmental Review 186
Depreciation 158
Depreciation, Building and Equipment 166
Depreciation, Property And Utility Costs 177
Depreciation, Straight Line Depreciation 176
Designated Representative 47
Determination Of Common Ownership Or Control In The Provider Organization And Supply Organization 169
Determinations 187
Determining Reimbursement, Shall Not Exceed Providers Usual And Customary Charges 177
Development Of The Rate 183
Development Of The Service Agreement 280
Developmental Disability 216, 254
Differences In Premium Rates Must Reflect Reasonable And Objective
- D**
- DWIMS 83, 96

Differences 318
Dignity And Respect 266
Dining/Recreation/Living Space, Residential And Assisted Living Facilities 295
Diphtheria, Control Measures 135
Diplomas And Graduation 23
Direct Care Costs 158
Direct Cost Limits 184
Director 82, 96, 158, 313
Disaster And Fire Preparedness 236
Disaster Preparedness, Residential And Assisted Living Facilities 293
Disclosure Of Complaint Information 265
Disclosure Of Resident Identity 266
Disinfectant Residuals, Disinfection Byproducts, And Disinfection Byproduct Precursors 111
Disinfection 82, 96
Disinfection Profile 96
Disinfection Profiling And Benchmarking 110
Disinfection, 40 CFR 141.72, Incorporated By Reference 106
Disinfection, Chlorine 115
Disposal 55
Disputes 188
Distressed Facility. 186
Distribution System 83
District 119
District Director 119
Division of Environmental Quality 58
Documentation Requirements, New and Existing Tier I Facilities 61
Documents Incorporated 252
Documents Incorporated By Reference 29, 49, 121
Draft Permit 47
Drinking Water System 83, 96
Droplet Precautions 119
Drugs, Payment For Prescription Drugs To Outpatients 194
Dry Milk Products 287
Dual Enrollment 24
Due And Payable 27
Due Date 350

E

Economy And Efficiency 188
Education And Experience Requirements For Public Drinking Water Operators 88

Effect Of Previous Revocation Or Denial Of A Certificate Or A License, Certified Family Homes 220
Effect Of Previous Revocation Or Denial Of A License 262
Efficiency Incentive 183
Efficiency Increment For ICF/MR 177
Efficiency Increment, Nursing Home Reimbursement System 177
Elderly 254
Electrical Installations And Equipment, Residential And Assisted Living Facilities 292
Electronic Funds Transfer 346
Eligibility For Special Education 19
Emergency Powers Of The Director 222
Emergency, Tier I Source 47
Emission Guidelines For Hospital/Medical/Infectious Waste Incinerators That Commenced Construction Before June 20, 1996 37
Emission Guidelines For Municipal Solid Waste Landfills That Commenced Construction, Reconstruction Or Modification Before May 30, 1991 32
Employee Benefits 166
Employees In More Than One State 317
Employer Census And Supporting Documentation 321
Employer Maintained Medical Or Dental Care 331
Employer Subsequently Becomes A Small Employer 316
Employment Requirement 88
Endangered Or Threatened Species Restriction 67
Enforcement Process, Certified Family Homes 240
Enforcement Process, Residential And Assisted Living Facilities 263
Enforcement Remedy Of Ban On Admissions Of Residents With Specific Diagnosis, Certified Family Homes 241
Enforcement Remedy Of Ban On Admissions Of Residents With Specific Diagnosis, Residential And Assisted Living Facilities 303

Enforcement Remedy Of Ban On All Admissions, Certified Family Homes 241
Enforcement Remedy Of Ban On All Admissions, Residential And Assisted Living Facilities 303
Enforcement Remedy Of Civil Monetary Penalties, Residential And Assisted Living Facilities 303
Enforcement Remedy Of Injunction 307
Enforcement Remedy Of Injunction, Certified Family Homes 242
Enforcement Remedy Of Provisional License, Found In Substantial Compliance With IDAPA 16.03.22 307
Enforcement Remedy Of Revocation Of Certificate, Certified Family Homes 241
Enforcement Remedy Of Revocation Of License, When Not In Substantial Compliance With IDAPA 16.03.22 307
Enforcement Remedy Of Summary Suspension And Transfer Of Residents, Certified Family Homes 241
Enforcement Remedy Of Summary Suspension And Transfer Of Residents, Residential And Assisted Living Facilities 307
Enforcement Remedy Of Temporary Management, Residential And Assisted Living Facilities 305
Engineering Report 112
Enhanced Coagulation 96
Enhanced Filtration And Disinfection 110
Enhanced Softening 96
Enhancing Financial Practices, Audits 189
Environmental Sanitation Standards, Certified Family Homes 233
Environmental Sanitation Standards, Residential And Assisted Living Facilities 288
Equity 158
Equivalency Policy 89
Escherichia Coli 0157:H7 And Other Shiga Toxin Producing E. coli (STEC) 136

- Estimated Final Credit 346
Estimated Useful Life Of Individual Items Of Major Movable Equipment 199
Estimated Useful Life Of Land Improvements, Buildings, And Fixed Equipment 196
Examination Of Records, May Include, But Not Limited To 189
Examination Of Survey Results 269
Examination Requirement 88
Examinations 339
Exception To Application Fee, Underwriter Fee, Or Other Fees 319
Exception To New Bed Rate 185
Exception To The Related Organization Principle 170
Exceptions, Filing A Petition 100
Excluded Solid Waste Management Facilities 54
Exclusion 114
Exempt Costs, Percentile Cap 177
Exemption 83, 96
Exemptions, IDAPA 16.03.19 214
Exemptions, IDAPA 16.03.22 251
Existing Facilities Housing Nine Or Less Residents, Fire And Life Safety Standards 290
Existing facility 55
Exit Door Locks, Residential And Assisted Living Facilities 292
Expansion or Enlargement Of A Commercial Solid Waste Facility 77
Expenses, Reporting Forms 172
Experimental Or Investigational 329
Experimental, Investigational 332
Expiration And Renewal Of Certificates 221
Expiration And Renewal Of License, Residential And Assisted Living Facilities 263
Exploitation 216, 254
Extended Payment 346
Extraordinary Occurrence Of Illness 119
Extraordinary Occurrence Of Illness, Control Measures 149
- F**
Facilities Housing Ten Through Fifteen Residents, Fire And Life Safety Standards 291
Facilities With Fifteen Beds Or Less 286
Facilities With More Than Sixteen Beds 286
Facility 158
Facility Notification, Upon The Decision To Implement An Enforcement Action 308
Facility Response To Incidents And Complaints 275
Facility Responsibility For Private-Pay Residents 278
Facility Review 186
Failed Or Refused To Comply 188
Failure To Comply With Continuing Medical Education Requirements 338
Failure To File A Return 350
Failure To Keep A Scheduled Visit 331, 334
False Statements, Records 188
Federal Regulations 94
Fee Assessment 83, 96
Fee Description, Partial Month 276
Fees 26, 168
Filing Date 326
Filing Returns 350
Filter Profile 97
Filtration 107
Filtration And Disinfection 106
Filtration Sampling Requirements 110
Final Payment 194
Final Permit 47
Final Settlement 189
Financial Assurance Application 65
Financial Assurance Requirements 70
Finding 254
Fire Alarm/Smoke Detection System 291
Fire Alarm/Smoke Detection System Service/Testing 293
Fire And Life Safety Standards, Certified Family Homes 235
Fire Drills, Residential And Assisted Living Facilities 291
Fire Prevention and Control 68
Fiscal Year 159
Flood Plain Restriction 67
Fluoridation, American Water Works Association Standards 116
Follow-Up Survey 254
Food Handler 119
Food Poisoning And Foodborne Illness, Control Measures 150
Food Preparation And Service, Residential And Assisted Living Facilities 287
Food Service Facilities 151
Food Service Sanitation Standards, Residential And Assisted Living Facilities 288
Food Service, Residential And Assisted Living Facilities 285
Food Services Provided By Facility 285
Food Storage, Residential And Assisted Living Facilities 286
Food Supply, Maintain A Seven Day Supply 287
Foodborne Outbreak 119
Forced Sale 159
Form And Substance 166
Form Of The Report, Supplied By The Department 125
Freedom From Abuse 269
Freedom Of Religion 269
Frozen Food Storage Temperatures 286
Full Certificate, Certified Family Homes 220
Full License 254
Full License, Period Of Twelve Months 263
Functional Abilities Assessment 254
Fund Management 193
Fund Raising, Nonallowable Costs 168
Funded Depreciation 159
Future Treatment Of Costs 186
- G**
GAAP 159
GAC10 97
Garbage 55
General Operating Requirements 67
General Permit, Tier I 47
General Provisions For Waivers, Variations, And Exemptions 100
General Requirements For A License, Residential And Assisted Living Facilities 259
General Requirements, Filtration And Disinfection 106
General Siting Requirements 67
General, Accounting Principles 156

General, Incorporations By Reference 29, 48
Generally Accepted Accounting Principles 159
Geologic Restrictions 67
Giardiasis, Control Measures 136
Goodwill 159
Goodwill, Nonallowable Costs 168
Governmental Unit 254
Grandparented Certificate Renewal 90
Grandparenting 87
Grandparenting Certificate 87
Grievances, Residential And Assisted Living Facilities Residents 269
Ground Water 55
Ground Water Monitoring 70
Groundwater Monitoring Application 65
Groundwater Monitoring Requirements 70
Groundwater System 83, 97
Groundwater, Systems Construced After July 1, 1985 115
Group Policy Or Trust Arrangement 316

H

Habilitation/Training 266
Haemophilus Influenzae Invasive Disease, Control Measures 136
Handling Of Reports By The Department And Districts 129
Handling Of Resident Funds 233
Handling Of Resident Funds, Residential And Assisted Living Facilities 282
Hands On 216, 254
Hantavirus Pulmonary Syndrome 136
Hazardous Substance 55
Health Benefit Plan Subject To The Act And This Rule 317
Health Care Facility 119
Health Care Provider 119
Health Facility 251
Hearing Aids 333
Hearing Aids, Supplies 330
Hearing Tests 330, 333
Hemolytic Uremic Syndrome (HUS) 137
Hepatitis A, Control Measures 137
Hepatitis B, Control Measures 138
Hepatitis C, Control Measures 138

Historical Cost 159
Holding Companies, Nonallowable Costs 168
Home Canned Foods 287
Home Construction And Physical Home Standards, Certified Family Homes 237
Home Office And Day Treatment Property Costs 164
Home Office Reporting 176
Home's Responsibility For Private-Pay Residents 228
Hourly Adult Care 254
Hourly Adult Care Operation 299
Hourly Adult Care, Residential And Assisted Living Facilities 298
Household Waste 55
Housekeeping Services And Equipment 290
Housing Of Sixteen Or More Residents, Fire And Life Safety Standards 291
Human Immunodeficiency Virus (HIV) Infection 139
Human T-Lymphotropic Virus (HTLV) Positive Tests 139
Humane Care And Environment 266

I

ICF/MR 159
ICF/MR Living Unit 159
Immediate Jeopardy 216, 240, 254
Immunizations And Medical Exams And Tests 334
Implementation Of Tobacco Master Settlement Agreement 350
Imposing Civil Monetary Penalties, Residential And Assisted Living Facilities 304
Imposition Of Enforcement Remedies, Residential And Assisted Living Facilities 302
Improvements 159
Incidents And Complaints, Residential And Assisted Living Facilities 275
Income Tax And Administration And Enforcement Rules 347
Incorporation By Reference 93, 214
Incorporation By Reference, IDAPA 16.03.22 252
Incorporations By Reference 29, 48
Independent Mobility 216, 254

Indirect Care Component 183
Indirect Care Costs 159
Individual Support Plan 217, 254
Individualized Education Programs 19
Individuals Who Have Special Needs 339
Induced Infertility 330
Inert Waste. 55
Inflation Adjustment 160
Inflation Factor 160
Inform Residents Orally And In Writing 270
Information Required For Review Of Modification Of Rating Method 317
Information To Be Included In A Uniform Needs Assessment 228
Information To Be Included In A Uniform Needs Assessment For Private-Pay Residents 278
Initial Deficiency 255
Initial License, Residential And Assisted Living Facilities 260
Initial Monitoring Schedule 104
Injury Or Sickness 334
Inorganic 83, 97
Inorganic Chemical Sampling And Analytical Requirements 103
Inorganic Contaminants 101
Inorganic Contaminants, Maximum Contaminant Level 105
Insect And Rodent Control 234
Insect And Rodent Control, Residential And Assisted Living Facilities 289
Insignificant Activity 47
Inspection - Right Of Entry 131
Inspection Of Homes 222
Inspections, Certified Family Homes 222
Inspections, Residential And Assisted Living Facilities 264
Insurance, Premiums 166
Intercom System, Not A Substitute For Supervision 296
Interest 160, 346
Interest Expense 170
Interest Expense, Application 170
Interest On Capital Indebtedness 160
Interest On Current Indebtedness 160
Interest Rate Limitation 160

- Interest, Depreciable Assets 176
Interest, Financing Building/Equipment Purchases 177
Interest, Nonallowable Costs 168
Interest, Working Capital Loans 166
Interim Adjustments To Rates As A Result Of New Mandates 186
Interim Rate Adjustments 186
Interim Reimbursement Rate (IRR) 160
Intermediary 160
Intermediate Care Facility For The Mentally Retarded 160
Internal Control, A Method Of Handling All Routine And Nonroutine Tasks 192
Invalidation Of Certificates 90
Investigation And Control Of Reportable Diseases 130
Inviolability Of Placards 131
Isolation 119
Issuance Of Certificates 220
Issuance To Person And Address, As Stated On Application 260
- K**
- Keyman Insurance 160
- L**
- Laboratory Certification Reciprocity 83
Laboratory Director 120
Landfill 55
Laws Of This State Or Another State 317
Leachate 55
Lead Poisoning Or Excess Lead Exposure, Control Measures 150
Lead Public Notice Requirements 105
Lease 160
Lease Or Rental Payments 166
Lease Payments, Property And Utility Costs 178
Lease Payments, Property Reimbursement 176
Leasehold Improvements 161
Leases For Property, ICF/MR 164
Legal Authority 117, 155
Legal Challenge 188
Legal Compliance 17
Legal Guardian/Conservator 255
Legionellosis, Control Measures 139
Leptospirosis, Control Measures 139
Level I - Minimal Assistance 255
Level II - Moderate Assistance 255
Level III - Extensive Assistance 255
Level Of Care 161, 217, 255
License Requirements, Residential And Assisted Living Facilities 262
Licensed Bed Capacity 161
Licensed Environmental Health Specialist 256
Licensed Laboratory 120
Licensed Physician 120
Licensed Veterinarian 120
Licensing Agency 256
Life Safety Code Requirements, Residential And Assisted Living Facilities 290
Lift 55
Limitation Foot Care 330
Limitation Of Facilities Rate 185
Limitation On Increase Or Decrease Of Cost Limits 185
Limitations And Exclusions 329, 332
Limitations On Revised Premium Rate 320
Linen-Laundry Facilities And Services 289
Listeriosis 140
Livestock 120
Log 83, 97
Loss Of Valuation 346
Lower Of Cost Or Charges 161
Lyme Disease, Control Measures 140
- M**
- MAI Appraisal 161
MCO 313
MCO Provider 313
MDS Reviews 186
Maintaining The Admission And Discharge Register 278
Maintenance Of Equipment And Systems For Fire And Life Safety, Residential And Assisted Living Facilities 293
Maintenance Of Resident Records 232
Major Facility 47
Major Movable Equipment 161
Malaria, Control Measures 140
Management Of Personal Funds 267
Manipulative Therapy And Related Treatment 330, 333
Manufactured Home Buyer's Information And Disclosure Form 14
Market Status 327
Marriage And Family Counseling 334
Maximum Contaminant Level Goals 105
Maximum Contaminant Level Goals For Disinfection Byproducts 105
Maximum Contaminant Levels And Maximum Residual Disinfectant Levels 101
Maximum Contaminant Levels For Disinfection Byproducts 101
Maximum Daily Consumption Rate 83, 97
Maximum Hourly Demand 83, 97
Maximum Residual Disinfectant Level (MRDL) 97
Maximum Residual Disinfectant Level Goal (MRDLG) 97
Maximum Residual Disinfectant Level Goals For Disinfectants 105
Maximum Residual Disinfectant Levels 101
Measles, Control Measures 140
Medicaid 161
Medicaid Related Ancillary Costs 161
Medical Gases 292
Medical Record 119
Medical Services Received From Employer, Labor Union Association 334
Medicare Costs, Nonallowable Costs 168
Medication 256
Medication Administration 256
Medication Assistance 256
Medication Dispensing 256
Medication Distribution System 235, 283
Medication Interactions And Usage 285
Medication Standards And Requirements, Certified Family Homes 234
Medication Standards And Requirements, Residential And Assisted Living Facilities 283
Medications, Special Care Unit/Facility 301
Mental Health Contract Beds, Residential And Assisted Living Facilities
-

ties 298
Mentally Ill 256
Menu Planning, Residential And Assisted Living Facilities 285
Method Detection Limit (MDL) 83, 98
Method Of Investigation 265
Microbiological Contaminant Sampling And Analytical Requirements 101
Microbiological Contaminants 101, 105
Minimum Data Set (MDS) 161
Minor Movable Equipment 161
Modification 55
Modified Or Therapeutic Diets, Residential And Assisted Living Facilities 286
Monitoring And Analytical Requirements 101
Monitoring Frequency For Radioactivity In Community Water Systems 103
Monitoring Visit 217, 256
Mumps, Control Measures 141
Municipal Solid Waste Landfill Applicability 54
Municipal Solid Waste Landfill Unit (MSWLF) 56
Myocarditis, Viral 141

N

Need For Temporary Management, Residential And Assisted Living Facilities 305
Neglect 217, 257
Negotiated Service Agreement 217, 257
Negotiated Service Agreement, Certified Family Homes 228
Negotiated Service Agreement, Residential And Assisted Living Facilities 279
Neisseria Gonorrhoeae Infections, Control Measures 141
Neisseria Meningitidis Invasive Disease, Control Measures 141
Net Book Value, Minor Moveable Equipment 162
New Bed 162
New Buildings, Fire And Life Safety Standards 290
New Construction, Additions, Alter-

ations, Residential And Assisted Living Facilities 297
New Entrants, Requirement To Insure Entire Groups 322
New Manufactured Home Buyer's Information And Disclosure Form 15
New System 83, 98
No Allowance 331
No Charges, No Legal Obligation To Pay 333
No Coverage Prior To Effective Date Of Coverage 330
No Medical Diagnosis 330, 333
No Requirement To Qualify For Other Insurance Product 326
No Restrictions Or Limitations On Coverage Related To Risk Characteristics 322
Nominal Charges 162
Non 313
Non-Licensed Entities 313
Non-Municipal Solid Waste (NM-SW) 56
Non-Municipal Solid Waste Landfill 73
Non-Municipal Solid Waste Landfill (NMSWLF) 56
Nonallowable Costs 167
Nonambulatory 162
Noncommunity Water System 83, 98
Nonexclusive Relationship 170
Nonlegend Drugs 194
Nonpatient Care Related Activities, Nonallowable Costs 168
Nonprofit Organization 162
Nonproperty, Nonutility Costs 177
Nontransient Noncommunity Water System 83, 98
Normalized Per Diem Cost 162
Not Eligible For Reinsurance Program 327
Not Medically Necessary 332
Notice Of Enforcement Remedy, After The Facility Is Afforded Any Reviews Or Hearings 308
Notice Of Enforcement Remedy, Certified Family Homes 242
Notice Of Increase Of Monthly Fee 276
Notice Of Rights, Residential And Assisted Living Facilities 270

Notice Of Temporary Management, Department Shall Give Written Notice To The Facility 305
Notice To The Ombudsman 243
Notice To The Professional Licensing Boards 243, 308
Notice To The Residents' Attending Physicians 243
Notification Of Adjustment Of The Fee 77
Nuclear Facility 84, 98
Nursing Facility Inflation Rate 162
Nursing Home Facility 162
Nursing Services, Residential And Assisted Living Facilities 284

O

Odor Management Plan 71
Offer Of Coverage 321
One System Limitation 88
One Year Limit On Waivers 214
Ongoing Resident Records 232, 281
Ongoing Training 220
Open Burning 56
Open Dump 56
Operating Certificate 84
Operating Criteria 115
Operating Criteria For Public Water Systems 114
Operating Experience 84
Operating Shift 84
Operation And Treatment, Sexual Change 331
Operational Standards And Procedures, Residential And Assisted Living Facilities 274
Operator Certification Requirement 87
Operator Certifying Entity 84
Operator Reciprocity 84
Operator/Owner/Purveyor Of Water/Supplier Of Water 84
Operator/Owner/Purveyor of Water 98
Order For Isolation, Issued By State Health Officer 131
Order To Report For Examination 131
Ordinary 162
Organic Chemicals Other Than Total Trihalometranes, Sampling And Analytical Requirements 103
Organic Contaminants 101, 105

- Organization, Nonallowable Costs 168
Orientation Training, Special Care Unit/Facility 301
Outbreak 120
Overhead Clearance In General 341
Overpayments, Accounting Treatment 194
Oversight Committee 187
Ownership, Documentation 113
- P**
- PRM, Provider Reimbursement Manual 162
PRN 217, 257
Park, Scenic Or Natural Use Restriction 67
Part 70, Unless Specified Otherwise, 40 CFR Part 70 Incorporated By Reference 48
Participation In Resident And Family Groups 269
Participation In The Development Of The Negotiated Service Agreement 267
Participation Requirement 321
Particular Service 324
Passing Score On Exam 340
Patient Day 162
Patient Funds, Safekeeping 193
Patient Trust Fund Evaluation, Audits 189
Payment Of Penalties 304
Payment of Abandoned Property 351
Payroll Taxes 167
Peak Hourly Flow 84, 98
Penalties 91
Percentage Above Bed-Weighted Median 184
Permanent Waiver 251
Permit Revision 48
Permitting Requirements, Owners/Operators Of Landfills 31
Person 84, 98
Personal Assistance 257
Personal Care 120
Personal Care Services 217
Personal Convenience Items 331
Personal Funds 267
Personal Hygiene And Convenience Items 334
Personal Possessions, Residential And Assisted Living Facilities 267
Personnel 257
Personnel Continuing Training, Residential And Assisted Living Facilities 272
Personnel Job Descriptions For Personal Care To Residents 271
Personnel Orientation, Specialized Care Units/Facilities For Alzheimer/Dementia Residents 300
Personnel Training In Infection Control For Universal Precautions 272
Personnel With Infections 272
Personnel, Residential And Assisted Living Facilities 273
Pertussis, Control Measures 142
Pesticides 84, 98
Phase II Source 48
Phase II Unit 48
Phase-In Provisions 187
Philosophy 23
Physical Restraint 257
Physicians Exempt From CME Requirements 336
Picture Date 162
Placement Of Persons Into An Uncertified Family Home 222
Plague, Control Measures 142
Plan Of Correction 265
Plans Subject To Requirement Of The Act And This Rule 326
Plant Classification Limitations 88
Pneumocystis Carinii Pneumonia (PCP), Control Measures 142
Point Of Entry Devices 112
Policies Of Acceptable Admissions 276
Poliomyelitis, Control Measures 143
Portable Fire Extinguishers 292
Powers And Duties Of The Temporary Manager 305
Pre-Existing Conditions, Limitations And Exclusions 334
Precluded From Operating In Idaho 327
Preexisting Conditions 331
Premium Rates To Be Developed In Two Step Process 319
Preparer, Application 171
Preservation Of Evidence 188
Pressure Ulcers 257
Previous Coverage Or Existing Coverage 323
Principle, ICF/MR Facilities 176
Principle, Interim Reimbursement Rates 183
Principle, Providers Of Nursing Home Services 177
Principle, Reasonable Cost Principles 165
Principle, Related Party Transactions 169
Prior To Effective Date 333
Private Duty Nursing 331, 334
Private Rate 162
Private Room 333
Private Room Accommodation Charges 330
Procedural Safeguards 21
Procedure For Hearings For Denial Or Revocation Of A Certificate 222
Procedure For Hearings For Enforcement Actions Against A Certificate, Certified Family Homes 243
Procedure For Hearings For Enforcement Actions Against A License, Residential And Assisted Living Facilities 308
Processing 56
Professional Growth Requirement 90
Progress Of Previous Recommendations 284
Prohibited Activities, Landfills 68
Projected Waste Volume 56
Promoter Sponsored Events, A Promoter Shall Forward A Completed Form ST-124 For Each Exhibitor 344
Property And Utility Costs, Nursing Home Services 177
Property And Utility Costs, The Allowability Of Each Of These Cost Items 177
Property Costs 162
Property Costs, Allowable Costs 167
Property Costs, Nonallowable Costs 168
Property Insurance, Allowable Costs 167
Property Insurance, Property And Utility Costs 177
Property Insurance, Property Reimbursement 176
Property Line Restriction 67

- Property Reimbursement To Intermediate Care Facilities For The Mentally Retarded (ICF/MR Class) 164
Property Reimbursement, As Shown On The Latest Twelve Month Cost Report Or Audit Report 183
Property Reimbursement, ICF/MR 176
Property Rental Rate 163
Property Taxes, ICF/MR 176
Property Taxes, Property And Utility Costs 178
Proposed Permit 48
Proprietary 163
Prospective Rates For ICF/MR 176
Provider 163, 217
Provider Liability, Patient Funds 193
Provider Training 220
Provision Of Copy Of Agreement, Copy Given To Resident 280
Provisional Certificate, Certified Family Homes 220
Provisional License 257
Provisions For Which Trust Is Seeking Waiver 320
Prudent Buyer 163
Psittacosis, Control Measures 143
Psychosocial History 257
Public Availability Of Deficiencies 266
Public Disclosure 224
Public Disclosure, Filed Reports, Inspections, Or As Otherwise Authorized Under The Law 266
Public Drinking Water System 84
Public Hearing 100
Public Notice 84, 98
Public Notification 105
Public Provider 163
Public Water System 98
Public Water System/Water System/System 85
Pumpable Waste 56
Punishment 257
Purchases, Purchased From A Related Entity 170
- Q**
Q Fever, Control Measures 143
Qualifications For Certification 87
Qualifications Of Persons Making Uniform Needs Assessments For Private-Pay Residents 228
Qualifications Of The Administrator, Residential And Assisted Living Facilities 270
Qualified Professional 56
Qualifying Previous And Qualifying Existing Coverages 323
Quantity And Pressure Requirements 114
Quarantine 120
Quarantine Of Contacts Within Septic Premises 131
- R**
Rabies Post-Exposure Prophylaxis (PEP) 120
Rabies Susceptible Animal 120
Rabies, Control Measures 143
Radium-226, Radium-228, And Gross Alpha Particle Radioactivity 101
Rate Adjustment, To Set Interim Rates Based On Projected Cost Data 183
Rate Manual And Practices Must Comply With Guidelines Issued By Director 319
Rate Manual Must Clearly Illustrate Relationship Among Base Premium Rate And Any Difference In New Business Rate 318
Rate Manual To Be Maintained For A Period Of Six Years 319
Rate Manual To Specify Case Characteristics And Rate Factors To Be Applied 318
Rate Setting, Nursing Facilities 182
Rating Restrictions On Plans Where Carrier Is No Longer Enrolling New Business 320
Raw Food 163
Reasonable Cost Principles 165
Reasonable Property Insurance 163
Recipient 163
Reciprocity 85, 89, 98
Recommendation For Temporary Management, Licensing Agency 305
Recommendation Of Remedy 240
Recommendation Of Remedy, Determining Which Remedy To Recommend 302
Record Maintenance 105
Record Of Attendance, Continuing Medical Education 338
Record-Keeping Requirements, Drug Records 194
Records, Hourly Adult Care Operation 299
Recyclables 56
Recycling 56
Recycling Center 57
Reference To Relevant Income Tax Rules 347
References 347
Refrigerator And Freezer Temperature 286
Refund For Overpayments 346
Refusal To Provide Information 321
Refused To Allow Representative 188
Reimbursement Provisions For State Owned Or Operated ICF/MR Facilities 156
Reimbursement, No Reimbursement Paid Until The Facility Is Certified 164
Relapsing Fever, Control Measures 145
Related Entities 163
Related Laws 313
Related Party Interest, Nonallowable Costs 168
Related Party Nonallowable Costs 168
Related Party Refunds, Nonallowable Costs 168
Related Party Transactions 169
Related To Provider 163
Relative(s) 217, 257
Reliability Of Internal Control, Audits 188
Remodeling Or Additions 294
Renewal Of Invalidated Certificates 90
Renewing A Waiver 214
Rentals, Transactions Between Related Entities 170
Repairs And Maintenance, When Related To Patient Care 167
Repeat Compliance Period 85, 98
Repeat Deficiency 217, 257
Repeated Noncompliance 217, 241, 258
Report Of Fire 237
Reportable Diseases And Conditions 122
Reporting And Record Keeping Requirements For The Disinfectants

- And Disinfectant Byproducts Rule 105
- Reporting And Recordkeeping 110
- Reporting And Recordkeeping For The Interim Enhanced Surface Water Treatment Rule 105
- Reporting And Recordkeeping, Filtration Sampling 110
- Reporting By Chain Organizations Or Related Party Providers 171
- Reporting Forms, Unless Prior Approval Is Granted, Only State Forms Will Be Acceptable 172
- Reporting Period, New Providers 172
- Reporting Requirements, Public Notification 105
- Reporting Requirements, Section 859 32
- Reporting Requirements, Section 860 33
- Reporting, Public Notification, Recordkeeping 105
- Representative Of The Department 258
- Required Disclosure, Manufactured Home Dealers 14
- Requirement To Insure Entire Groups 321
- Requirements For Adjustments To Rating Method 317
- Requirements For Certification 88
- Requirements For Existing Buildings To Be Converted To A Facility, Residential And Assisted Living Facilities 296
- Requirements For Existing Homes To Be Converted To Certified Family Homes, Certified Family Homes 240
- Requirements For Fire And Life Safety Standards, Residential And Assisted Living Facilities 290
- Requirements For Furnishing, Equipment, And Supplies, Residential And Assisted Living Facilities 298
- Requirements For Retakes 340
- Requirements Of A Valid Return, Cigarette Tax Return 350
- Requirements Of The MCO 313
- Requirements, Standards And Requirements 189
- Rescission Employer Misstatements 323
- Resident Charges And Financial Records, Certified Family Homes 232
- Resident Charges And Financial Records, Residential And Assisted Living Facilities 282
- Resident Councils, Residential And Assisted Living Facilities 269
- Resident Funds Policies 232
- Resident Funds Policies, Residential And Assisted Living Facilities 282
- Resident Health Status 284
- Resident Records 266
- Resident Records, Certified Family Homes 231
- Resident Records, Residential And Assisted Living Facilities 280
- Resident Response To Medications 284
- Resident Sleeping Room Furnishings 298
- Resident Sleeping Rooms 239, 295
- Resident Telephone Privacy, Residential And Assisted Living Facilities 298
- Resident, Boarding Home 258
- Resident, Certified Family Home 217
- Resident, Residential And Assisted Living Facility 258
- Residential And Assisted Living Facility 258
- Residential Care Facility 120
- Residential Habilitation 217
- Residents In Unlicensed Facilities 264
- Residents Required To Go Outside, Dining Room/Shower/Bath Recreation Areas 295
- Residents' Rights, Certified Family Homes 224
- Residents' Rights, Residential And Assisted Living Facilities 266
- Resource Utilization Groups (RUG's) 163
- Responsibilities Of The Administrator, Residential And Assisted Living Facilities 271
- Responsibility And Authority, Department Or Authorized Representative 130
- Responsibility For Maintenance Of Sanitary Conditions 288
- Responsibility For Payment Of The Temporary Manager 306
- Responsible Charge (RC) 85
- Restrictable Disease 120
- Restrictions As To Contribution To Association 325
- Restrictions As To The Offering Of Insurance 327
- Restrictions Relating To Premium Rates 317
- Restrictions, Hourly Adult Care Operation 299
- Restrictions, Property Reimbursement To ICF/MR Facilities 164
- Restrictive Riders 324
- Revenues, Cost Reporting System 172
- Reversal Of Elective Infertility 333
- Review Of New Provider Fiscal Records 189
- Review Of Plans And Specifications 113
- Revocation Of Certificate 222
- Revocation Of The Home's Certificate 241
- Revoke The Facility's License, Department May Institute A Revocation Action 307
- Reye Syndrome, Control Measures 145
- Right To Sell, Certified Family Homes 242
- Right To Sell, Residential And Assisted Living Facilities 308
- Risk Load, Requirement To Insure Entire Groups 322
- Rocky Mountain Spotted Fever, Control Measures 145
- Room And Board 217, 258
- Rubella, Control Measures 145
- Rules Related To Fair Marketing 324
- S**
- Safety, Special Care Unit/Facility 302
- Salaries, All Employees Engaged In Patient Care Activities 167
- Sales And Rental Of Hospitals Or Extended Care Facilities 170
- Salmonellosis, Control Measures 145
- Salvage 57

- Sampling Point 85, 98
Sanitary Defects 85, 98
Sanitary Survey 99
Sanitary Surveys. 111
Scavenge 57
Scavenging And Salvaging 68
Schedule Of Fees For The Idaho State Brand Board 26
Schools, Control Of Reportable/Restrictable Diseases 152
Scoring And Report Formats 24
Screening Examinations 331, 334
Section 502(B)(10) Changes 48
Self Medicator 284
Self Preservation 258
Self-Administration Of Medication 217, 258
Self-Preservation 218
Separate Rate Manual For Each Class Of Business 317
Septage 57
Service Coordinator 218
Service Plan 218, 258
Services Not Medically Necessary, Excluded 329
Services Performed By A Member Of Family 333
Services Performed By A Member Of The Insureds Family 330
Services, Statewide Testing 24
Services, Supportive 251
Severe Or Unusual Reaction To Any Immunization, Control Measures 150
Severe Reaction To Any Immunization 121
Severity 258
Sex Change Operations 334
Sexually Transmitted Infection Contacts 131
Shigellosis, Control Measures 147
Significant Deficiency 99
Significant Exposure To Blood Or Body Fluids 121
Skilled Nursing Care 163
Skilled Nursing Facility 163
Small Employer Carrier Shall Actively Market 324
Small Employer Carrier Shall Not Apply Waiting Period Or Similar Limitation 322
Small Employer Carrier Shall Not Issue Coverage 321
Smoking, Residential And Assisted Living Facilities 292
Solid Fuel Heating Devices 292
Solid Waste Facility Other Than MSWLF Applicability 54
Source Of Previous Or Existing Coverage 324
Source, Department Approval 114
Special Education 17
Special Education Advisory Panel 23
Special Rates 187
Special Reports 171
Specialized Care Units/Facilities For Alzheimer/Dementia Residents 300
Specific Applicable Requirements For Below Regulatory Concern Facilities 58
Specific Applicable Requirements For Tier I Facilities 58
Specific Applicable Requirements For Tier II Facilities 61
Specific Applicable Requirements For Tier III Facilities 62
Specific Compliance Requirements 327
Specific Control Measures For Reportable Diseases 132
Specific Criteria For Processing Facilities 71
Specific Data 326
Specific Ultraviolet Absorption (SUA) 99
Speculative Accumulation 57
Speech Tests 330
Spring 85, 99
Staffing Patterns Shall Be Based On Resident Need Rather Than Resident Numbers 273
Staffing Standards And Requirements, Residential And Assisted Living Facilities 273
Standard Precautions 121
Standards And Requirements, New Providers 189
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 34
Standards Of Performance For Municipal Solid Waste Landfills That Commenced Construction, Reconstruction Or Modification On Or After May 30, 1991 30
State Certification To Supersede Local Regulation, Certified Family Homes 220
State Epidemiologist 121
State Health Officer 121
State Licensing To Supersede Local Regulation 263
Statement Of Deficiencies 265
Statement Of Deficiency 266
Status Of Carriers As Small Employer Carriers 327
Storm Water Run-On/Run-Off Controls 70
Story, First 258
Streptococcus Pyogenes, Group A, Infections Which Are Invasive Or Result In Rheumatic Fever, Control Measures 147
Structure, Maintenance, Equipment To Assure Safety 291
Structures On Main Lines 342
Subsequent Employment Of More Than Fifty Eligible Employees 316
Substandard Quality Of Care 218, 258
Substantial Compliance 218, 258
Substituting Education For Experience 88
Substituting Experience For Education 89
Summarily Suspend The Facility's License And Transfer Residents, Residents' Health And Safety Are In Immediate Jeopardy 307
Summarily Suspend The Home's Certificate And Transfer Residents 241
Supervision 259
Supplies 167
Supplying Organization 170
Supportive Services 259
Surface Water Exemptions 101
Surface Water Restriction 67
Surface Water System 85, 99
Surface Water Variances 101
Survey 259
Surveyor 259
Suspected Case 121

Suspension, Reduction Or Revocation, Operator Certificate 91
Syphilis, Control Measures 147
System Operator 99
System Operator Certification Requirement 87

T

Taxes, Property 167
Temperature Of Served Food 287
Temporary License 259
Temporary Waivers 251
Termination 331, 334
Test Security 24
Testing In The Public Schools 23
Testing Population 23
Testing Schedule 24
Tetanus, Control Measures 148
Thawing Of Frozen Food 286
The Act 312
Tier I Operating Permit 48
Time Frames For Completing The Uniform Needs Assessment Instrument For Private-Pay Residents 228
Time Period For Notification Of Options To Employer 316
Timeliness Of Price Quote 325
Title And Scope 117
Title XIX 163
Title XVIII 163
Toilet And Bathrooms, Residential And Assisted Living Facilities 294
Toilet Facilities And Bathrooms 238
Toll-Free Telephone Service 325
Total Number Of Residents 326
Total Organic Carbon (TOC) 99
Total Trihalomethane Sampling, Analytical And Other Requirements 105
Toxic Shock Syndrome, Control Measures 148
Training Of Facility Personnel, Residential And Assisted Living Facilities 272
Transfer Of Residents 224
Transfer Of Residents, Certified Family Homes 244
Transfer Of Residents, Residential And Assisted Living Facilities 309
Transfer Or Discharge 269
Transfer Station 57
Transient Noncommunity Water System

85, 99
Transportation Of Patients With Communicable Disease 131
Treatment Facility 85
Treatment Of A Change In Ownership 185
Treatment Of Minors, Under Fourteen Years Of Age 132
Treatment Of New Beds 185
Treatment Of New Facilities 185
Treatment Techniques For Control Of Disinfection Byproduct (DBP) Precursors 111
Trichinosis, Control Measures 148
Trust Account 259
Tuberculosis, Control Measures 148
Tularemia, Control Measures 149
Turbidity 86, 99
Turbidity Sampling And Analytical Requirements 103
Turbidity, Contaminant Levels 101
Two Or More Buildings, Staffing Standards And Requirements 273
Type Of Facility Required To Meet Specialized Requirements, Alzheimer/Dementia Residents 300
Type Of License, Residential And Assisted Living Facilities 263

U

Unannounced Inspections 264
Uncertified Family Homes 222
Uncovered Finished Water Storage Facility 99
Uniform Allocation Of Administration Expenses 319
Uniform Application Of Fees 319
Uniform Assessment Criteria, Certified Family Homes 228
Uniform Assessment Criteria, Residential And Assisted Living Facilities 278
Uniform Assessment Instrument 218, 259
Uniform Assessments For Department Clients 279
Uniform Assessments For State-Funded Clients 228
Unlicensed Facilities, Residential And Assisted Living Facilities 264
Unregulated Contaminant 86, 100
Unregulated Contaminant Reporting And Public Notification 105

Unused Medication 235, 283
Use Of Bottled Water 112
Use Of Civil Monetary Penalties, Department Use 305
Use Of Modular (i.e., Factory Built) Buildings And Manufactured Homes 240, 297
Use Of Non-Centralized Treatment Devices 111
Use Of Uniform Needs Assessment For Determining The Ability Of Facility To Meet Private-Pay Resident Need 278
Use Of Uniform Needs Assessment For Determining The Ability Of Home To Meet Private-Pay Resident Needs. 228
Use, Patient Funds 193
Utilities 163
Utility Costs 178
Utility Costs, Development Of Facility's Rate For Upcoming Fiscal Year 183

V

Vaccination Of An Animal Against Rabies 121
Variance 86, 100
Variance From Siting Requirement 67
Vending Machines, Nonallowable Costs 168
Verification Of Diagnosis 131
Very Small Public Drinking Water System 86
Viral Or Aseptic Encephalitis, And Meningitis 149
Vision 330
Vision Therapy 333
Volatile Organic Chemicals (VOCS) 86, 100
Vulnerability Assessment 86, 100

W

Waiver 86, 100
Waiver For Documentation Of Coverage 321
Waiver Request For A Taft-Hartley Trust 320
Waiver Services 218, 259
Waiver Shall Not Apply To Individual Or Associate Member 320
Waivers 100
Waivers And Vulnerability Assess-

ments 103
Waivers, IDAPA 16.03.22 251
Waivers, May Be Granted 213
Waste Handling Operations At Incinerators And Transfer Stations 72
Waste Monitoring And Measurement 68
Waste Types 68
Wastes Not Regulated Under These Rules 53
Water System Operator 86
Weak, Strained Or Flat Feet 333
Week 121
When Is A Small Employer Carrier Not Subject To The Act And This Rule 317
When To Report, Diseases 125
Who May Serve As Temporary Manager 305
Wigs Or Hair Loss 334
Wilfully Prevented, Interfered With, Or Attempted To Impede Work 188
Workers Compensation, Medicare Or Champus 333
Workers' Compensation, Medicare, CHAMPUS 329
Working Day 121
Written Description Of Rights 270
Written Report, Following Any Investigation Or Inspection 265
Written Request For Building Evaluation, Residential And Assisted Living Facilities 261
Written Request, Waivers 213

Y

Yard Waste 57
Yellow Pages Advertising, Nonallowable Costs 168
Yersiniosis, Control Measures 149