

IDAHO ADMINISTRATIVE BULLETIN

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THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 95-13

CONTINUING STATE OF IDAHO COMPREHENSIVE SAFETY

*AND LOSS CONTROL POLICY
REPEALING AND REPLACING EXECUTIVE ORDER NO. 93-09*

WHEREAS, it is in the best interest of state employees, the general public and efficient operation of state government to have a commitment to safety and loss control; and

WHEREAS, the State of Idaho endeavors to provide a safe and healthy working environment for state employees and to protect the public and public property from injury or damage; and

WHEREAS, an effective Safety and Loss Control Policy provides additional benefits of improved productivity, employee confidence, lower insurance costs and improved worker morale; and

WHEREAS, an effective Safety and Loss Control Policy requires full management commitment, cooperation and leadership at all levels of state government;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me under the Constitution and Laws of this state, do hereby order as follows:

1. Each Department Director or other appointing authority will continue to develop, maintain, and monitor a systematic program of safety and loss control for each agency that will minimize the risk of injury or damage to: (a) the public employee, (b) the general public, (c) state property, (d) the ability of the agency to fulfill its mission and (e) the environment. The continued development, maintenance, and monitoring of a systematic program of safety and loss control should be a priority objective for each agency.

2. Each Department Director or other appointing authority will continue to ensure that, where applicable, potential new state employees are appropriately screened, that new employees are systematically and fully trained for all equipment that they are expected to operate, that safe work practices are followed by all employees on the job, that all equipment used is properly maintained and used for its intended purpose, that proper personal protective equipment is worn when needed and that safety practices are a criterion in employee and supervisor performance evaluations in those positions where such is applicable.

3. Each Department Director or other appointing authority will continue to assume responsibility for reviewing loss reports and accidents involving bodily injury, or property or environmental damage, and to take corrective action to avoid future loss. Where appropriate, assistance from the agencies listed below should be requested to develop and

implement appropriate corrective or preventive measures. Each Department Director or other appointing authority may delegate the authority to perform these duties to a safety officer or committee but shall remain responsible for the performance of the agency's safety and loss control program.

4. *All buildings owned or maintained by any state government agency or entity, or which are constructed or renovated specifically for use or occupancy by any such agency or entity shall conform to all existing state codes, including but not restricted to, the Idaho General Safety and Health Standards Code No. 1, the Uniform Building Code, the Uniform Mechanical Code and the Uniform Fire Code. If any conflict arises between applicable codes, the more stringent code shall take precedence. Prior to construction, or remodeling of such buildings, where appropriate, construction plans shall be reviewed and approved by the Department of Labor and Industrial Services and the Permanent Building Fund Advisory Council.*

5. *The following agencies shall continue to assist state agencies by offering the following services:*

a. *Department of Labor and Industrial Services shall inspect public buildings and places of employment, and enforce safety and sanitary conditions and practices.*

b. *The Office of the State Fire Marshal shall, through the local fire authorities, inspect public buildings and enforce fire and life safety provisions as contained within the Uniform Fire Code.*

c. *The State Insurance Fund shall assist in developing employee safety programs, through consultation with staff agency personnel, and provide detailed reports to agencies on their losses insured through the State Insurance Fund.*

d. *The Department of Administration, Bureau of Risk Management, shall, whenever needed or requested, assist agencies in developing their safety and loss control programs. The Department of Administration, Bureau of Risk Management, shall also assist agencies in obtaining other requested services in safety and/or loss control not mentioned above, including, but not limited to, general property and casualty loss control, and shall provide detailed reports to agencies on their losses insured through the Bureau of Risk Management.*

6. *A Statewide Safety and Loss Control Committee shall be comprised of the Director of the Department of Labor and Industrial Services, the Manager of the State Insurance Fund, the State Fire Marshal, the Director of the Department of Administration (who shall serve as Chairman of the Committee), or their designees, and other state agencies as deemed necessary. The purpose of the Committee shall be to:*

a. *Adopt a Statewide Safety and Loss Control Program of a proactive nature with a system tracking the progress of the program;*

b. *Develop strategies and standards to assist agencies with their safety programs;*

c. *Review statewide trends in losses and exposures and make cost-effective recommendations;*

- d. *Coordinate the services available to maximize efficiency and reduce unnecessary duplication of inspections;*
- e. *On behalf of the Governor, review the safety and loss control programs of selected agencies and recommend changes to improve the effectiveness of the programs;*
- f. *Make recommendations to the Governor and Legislature on improving safety and loss control for state government;*
- g. *Convene and meet on a quarterly basis, or more frequently if necessary, to plan, implement and review the Statewide Safety and Loss Control Program; and*
- h. *Perform other related duties as may be requested by the Governor.*

This Order repeals and replaces Executive Order No. 93-09.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capitol, the _____ day of _____, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 95-14

CONTINUATION OF THE MARTIN LUTHER KING, JR. TASK FORCE,

REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-17

WHEREAS, in 1983 Congress enacted legislation which established the third Monday of each January as a legal federal holiday in commemoration of Dr. Martin Luther King, Jr. and Idaho joined other states by establishing the third Monday in January as Martin Luther King, Jr.-Idaho Human Rights Day; and

WHEREAS, Congress, in conjunction with this Act, has created the Martin Luther King, Jr. Federal Holiday Commission to promote appropriate observances including those at the state level; and

WHEREAS, Idaho wishes to ensure that all persons have an opportunity to participate fully in honoring Dr. King on the third Monday in January; and

WHEREAS, the celebration of Dr. King's birthday is intended as a time for all Americans to reaffirm their commitment to the basic principles that underlie our Constitution--equality and justice for all;

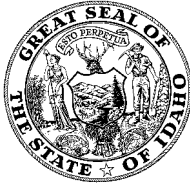
NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, by the authority vested in me pursuant to Section 67-802, Idaho Code, do hereby order the continuation of the Governor's Task Force to plan Idaho's observance of the Martin Luther King, Jr.-Idaho Human Rights Day activities. The Task Force shall consist of a Chairperson and such persons as may be appointed by the Governor and who will serve at his pleasure.

The Task Force shall:

1. Review material supplied to the state by the Martin Luther King, Jr. Federal Holiday Commission; solicit ideas from Idahoans concerning appropriate activities; and make recommendations to the Governor for the state observances;
2. Present the Governor with a report on activities of the past year and recommendations on the upcoming celebration. Such reports are due on November 15 of each year;
3. Encourage participation in activities recommended by the Task Force and the Governor as part of Idaho's commemoration of Dr. King's birthday; and
4. Work with citizen and community groups from throughout the state in coordinating and assisting them to plan activities honoring Dr. King.

Members shall serve without compensation. The Task Force will be staffed by the Idaho Human Rights Commission.

This Executive Order repeals and replaces Executive Order 91-17.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capitol, the _____ day of _____, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 95-15

*DEFERRED COMPENSATION PROGRAM FOR
EMPLOYEES OF THE STATE OF IDAHO, REPEALING AND REPLACING
EXECUTIVE ORDER NO. 91-18*

WHEREAS, there is a continuing interest on the part of employees of the State of Idaho in a plan whereby employees may defer the receipt of portions of their earnings until retirement; and

WHEREAS, the Idaho Legislature by and through the implementation of section 59-513, Idaho Code, has provided for the establishment of a Deferred Compensation Program; and

WHEREAS, in response to this interest, the Board of Examiners of the State of Idaho has appointed a Deferred Compensation Committee to study implementation of such a plan; and

WHEREAS, a Deferred Compensation Program has been presented to and approved by the Board of Examiners of the State of Idaho by the Deferred Compensation Committee; and

WHEREAS, administrative entities on the state level are necessary for proper implementation and maintenance of the plan;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, do hereby, by virtue of the authority vested in me by law, order the following:

1. The Deferred Compensation Committee comprised of a representative appointed by the Governor; a representative from the Office of the Attorney General, and a representative from the Office of the Secretary of State is hereby named as the policymaking board for the Deferred Compensation Program subject to the authority vested in the Board of Examiners of the State of Idaho by law.

2. The Deferred Compensation Committee shall make the following decisions concerning the implementation and maintenance of a Deferred Compensation Program subject to the approval of the Board of Examiners.

a. Selection of a third-party administrator.

b. Selection of product companies which sell or offer securities or other assets to the State of Idaho in accordance with the Deferred Compensation Program.

- c. Approval and monitoring of the marketing program to introduce and explain the Deferred Compensation Program to state employees.*
 - d. Review all summary reports produced by the Office of the State Controller and the third-party administrator to insure proper accounting for all funds.*
 - e. Review on a yearly basis the viability of all product companies associated with the Deferred Compensation Program and to determine if rebidding is necessary.*
 - f. Review all financial hardship cases and other unusual circumstances developing with employees enrolled in the Deferred Compensation Program.*
 - g. Review and approve all plan documents, contracts, bylaws, and rules and regulations.*
 - h. Review the performance of the third-party administrator.*
 - i. Review all audits of the Deferred Compensation Program.*
- 3. A representative of the Department of Administration in accordance with the request of the Board of Examiners of the State of Idaho shall be responsible for all daily paperwork and contact with the third-party administrator and employees concerning routine matters. The Department of Administration is hereby required to provide the following routine administrative services:*
- a. Insure that remittance to the product companies of deferred moneys is made from the periodic payroll.*
 - b. Review and sign all enrollments, change and claim requests.*
 - c. Keep or arrange to keep any necessary files concerning the Deferred Compensation Program.*
 - d. Communicate with state employees and the third-party administrator concerning routine matters.*
 - e. Provide or arrange to provide completion of any other routine matters as requested by the Deferred Compensation Committee.*

This Executive Order repeals and replaces Executive Order No. 91-18.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capitol, the _____ day of _____, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 95-16

CONTINUATION OF THE IDAHO LEWIS AND CLARK TRAIL COMMITTEE

REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-16

WHEREAS, the Lewis and Clark Trail has great historical significance to the State of Idaho; and

WHEREAS, it is important that Idaho have an official group to coordinate with other Lewis and Clark Trail states;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, do hereby continue the Idaho Lewis and Clark Trail Committee as an advisory body to state, local and federal governments on the Lewis and Clark Trail development and management.

The Committee shall:

1. Promote public awareness of the historical significance of the Lewis and Clark Expedition and encourage the development and protection of historical sites and outdoor recreational resources along the Lewis and Clark Trail;
2. Act in an advisory capacity to other Idaho commissions, bureaus, agencies and committees by making recommendations regarding their activities and policies that relate to the history and trail of the Lewis and Clark Expedition; and
3. Serve as the official liaison with other Lewis and Clark Trail states; the national Lewis and Clark Trail Heritage Foundation, Inc.; and federal departments, bureaus, and committees concerned with the Lewis and Clark Trail in coordinating and planning activities to foster state and national recognition of the significance of the Lewis and Clark Expedition, including promotion of the aims and recommendations of the federal Lewis and Clark Trail Commission, which existed from 1964 to 1969.

The Committee shall consist of no more than 10 persons who are appointed by the Governor and serve at his pleasure. The membership of the Committee shall include the President of the Lewis and Clark Trail Heritage Foundation, a representative of the Idaho Historical Society, a representative of the Idaho Department of Parks and Recreation and the Governor or his designee.

The Committee shall have regular meetings as determined by the majority of the Committee and shall meet on special occasions upon the call of the Chairperson.

This Executive Order repeals and replaces Executive Order No. 91-16.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capitol, the _____ day of _____, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-01

ASSIGNMENTS OF ALL-HAZARD MITIGATION, PREPAREDNESS, RESPONSE

AND RECOVERY FUNCTIONS TO STATE AGENCIES IN SUPPORT OF LOCAL AND STATE GOVERNMENT PRIOR TO AND DURING EMERGENCIES AND DISASTERS. REPEALING AND REPLACING EXECUTIVE ORDER NO. 91-19

WHEREAS, widespread disaster resulting from floods, fires, storms, earthquakes, hazardous materials, tornadoes, landslides, mudslides, drought, explosion, riot, hostile military actions, or other catastrophe is an ever present possibility in this State; and

WHEREAS, Chapter 10, Title 46, Idaho Code requires the protection of lives and property of the residents of the State in any type of natural or man-made disaster emergency or threat that might conceivably confront the state; and

WHEREAS, it is the duty of all state officials to assume active leadership in emergency management through mitigation, preparedness, response, and recovery operations; and

WHEREAS, the Legislature has directed the development of such state disaster mitigation, preparedness, response, and recovery plans; and

WHEREAS, effective state mitigation, preparedness, response, and recovery planning requires the identification of functions that would be performed during such emergencies, the assignment of responsibility for performance of these functions, and the assignment of responsibility for developing the capability to implement these plans;

NOW, THEREFORE, I, Philip E. Batt, Governor of the State of Idaho, by virtue of the powers and authority vested in me by the Constitution and laws of this State, and in accordance with the provisions of Sections 46-601 and 46-1008, Idaho Code, do hereby assign emergency mitigation, preparedness, response, and recovery functions to the various agencies. Each department and agency with essential functions, whether expressly identified in this Order or not, shall:

I. COORDINATING INSTRUCTION

A. Office of the Adjutant General, Chief, Bureau of Disaster Services

1. Coordinate emergency management activities of all state agencies on behalf of the Governor. (Section 46-1006, Idaho Code).
2. Provide executive supervision and policy guidance to the state Director/Coordinator, Bureau of Disaster Services.
3. Order into active service of the state, the National Guard or any part thereof as directed by the Governor in the event a state of an extreme emergency is declared. (Section

46-601, Idaho Code).

B. *State Director, Bureau of Disaster Services*

1. *Coordinate and integrate state all-hazard mitigation, preparedness, response and recovery efforts for all emergencies and disasters.*
2. *Coordinate response, recovery and mitigation operations of all state agencies during an emergency or disaster.*
3. *Establish and maintain an Emergency Operations Center for directing the coordination of emergency operations.*
4. *Develop and coordinate the preparation and implementation of plans and programs for emergency mitigation, preparedness, response and recovery which are consistent with national plans and programs. Ensure state agency plans are consistent with state emergency management goals and procedures.*
5. *Coordinate mutual support between the state government and federal agencies.*
6. *Coordinate all requests from state and local governments for disaster emergency assistance.*
7. *Coordinate the use of communications and warning systems in the state Emergency Communications Center.*

II. GENERAL ASSIGNMENTS

Each state agency will:

- A. *Recognize that the actual delivery of emergency services in Idaho is accomplished by local governments, and that 85% of these emergency services are delivered by community volunteers, including fire, ambulance, rescue, planning and training.*
- B. *Recognize that the role of state government should be to support and enhance local community emergency response efforts, including focusing state agency activities on supporting regional and community needs throughout Idaho.*
- C. *Recognize that the State Emergency Response Commission (SERC), created by Idaho code, Section 39-7104, shall be expanded until such time as the Idaho code may be changed, to include ex-officio members from the following agencies to provide input and coordination on a temporary and informal basis regarding the following indicated hazards: Department of Lands, re: wild land fires; the Idaho Geological Survey, re: earthquakes and geophysical data; the Department of Water Resources, re: floods; and INEL Oversight Program, re: radiological hazards. (The SERC shall explore the permanent expansion of their membership and statutory duties through proposed legislative changes to enable advising on all possible emergency hazards in Idaho and shall provide their recommendation and draft legislation to the office of the Governor.)*

D. Continue the regular, open dialogues between local emergency service providers and state support agencies, begun with the Workgroup, under the sponsorship of the expanded Idaho Emergency Response Commission.

E. Develop and maintain disaster emergency operations plans to carry out the agency's response and recovery support functions. Agency plans will assign disaster emergency duties to all subdivisions and personnel. Plans will be kept current and a copy placed on file in the office of the Bureau of Disaster Services.

F. Develop and maintain business resumption plans. In addition to other considerations, the state agency plans will incorporate evacuation and accountability of personnel. A copy of the business resumption plan will be placed on file with the Bureau of Disaster Services.

G. Appoint an emergency management coordinator(s) and furnish that name(s) to the Bureau of Disaster Services. Each agency will ensure emergency management activities are coordinated throughout their agency and its subdivisions in order to support the State Emergency Plan and Federal Response Plan.

H. Ensure that all state agency data processing plans define their agency's data backup and recovery policies and are submitted annually to the Division of Information Technology.

I. Provide notification to the Bureau of Disaster Services of any significant incident, emergency, or disaster, impacting any level of government within the State of Idaho, when an agency becomes aware of such an event. The Bureau of Disaster Services will notify the Governor's Office through the Adjutant General, Chief, Bureau of Disaster Services.

J. Report to the State Emergency Operations Center when activated by the Bureau of Disaster Services. Activation of the state Emergency Operations Center may require both agency directors and emergency coordinators.

K. Provide coordination assistance and support during disaster and emergency operations as required by the Idaho Emergency Operations Plan and the Federal Response Plan. Agency support will include making resources and facilities available for essential emergency use.

L. Grant and/or use waivers in accordance with the applicable provisions of the Idaho Code for necessary disaster emergency response and recovery operations.

M. Provide full cooperation and support to those agencies that are assigned specific primary support roles in disaster mitigation, preparedness, response and recovery activities.

N. Provide agency incident reports to the Bureau of Disaster Services describing the agency's disaster emergency activities including the area of impact, impact on life and property, level of an agency's commitment, requests for assistance from local government, federal agencies participating in response or recovery, and resource shortfalls. Agency incident reports should be provided at least once every 24 hours in coordination with

other Bureau of Disaster Services situation reporting requirements.

O. Record and provide expense reports to the Bureau of Disaster Services, including expenditures for mitigation, preparedness, response and recovery activities. Expenditures will include costs for staff time, travel, major supplies and equipment, location, purpose, and any other costs which are a direct result of emergency management activities.

P. Provide supporting data for federal assistance applications and other mitigation, preparedness, response and recovery activities when requested by the Bureau of Disaster Services.

Q. Provide public Information officer assistance to the Bureau of Disaster Services, when requested.

R. Provide public information officers for Bureau of Disaster Services public information officer training and exercises in preparation for disaster response and recovery operations.

S. Train divisional personnel to meet state emergency response and recovery objectives as coordinated by the Bureau of Disaster Services.

T. Coordinate all training in emergency services for state agency employees, agents, or volunteers with the State Board for Vocational Education. The State Board shall provide information on that training to all interested agencies to enable those other agencies to participate in that training; thereby benefiting from the cost savings of a consolidated and coordinated statewide training program for all state emergency service agencies.

U. Coordinate any agreement or memorandum of understanding that incorporates emergency or disaster mitigation, preparedness, response, and recovery functions with the Bureau of Disaster Services. Such agreements or understandings will be integrated as part of the State Emergency Plan.

III. SPECIFIC ASSIGNMENTS

A. OFFICE OF THE ATTORNEY GENERAL

1. Provide legal advice and assistance to all executive officers of state government and to all offices or agencies of the State upon any question of law relating to their respective functions.

2. Provide consumer protection advice and assistance in response and recovery phases of a disaster.

B. DEPARTMENT OF ADMINISTRATION

1. Assist in the development and implementation of disaster emergency plans for use of all nonmilitary communications and warning systems within the State.

2. Assist other state and local agencies in procuring communications and warning

equipment required to fulfill emergency responsibilities. Maintain an inventory and coordinate the availability of mobile and portable radios between state agencies.

3. *Prepare communication and warning studies to improve emergency communications.*
4. *Promote and develop structural and non-structural mitigation actions for state owned or leased buildings and structures in association with the Departments of Education and Labor and Industrial Services.*
5. *Provide personnel for damage assessment and damage survey teams.*
6. *Provide state and local health authorities with assistance for emergency sanitation problems.*
7. *Assist in planning for emergency use of public lands, institutions and other buildings.*
8. *Supervise and coordinate the procurement of construction equipment and personnel as it pertains to essential facilities and housing, in conjunction with the Idaho Transportation Department.*
9. *Provide administrative and logistical support services.*
10. *Provide state and local governments with emergency contractual assistance and guidance.*
11. *Provide for the expanded security of the Capitol Mall Complex and state-owned or leased facilities, when required.*
12. *Coordinate with all state agencies to provide administrative support to the Bureau of Disaster Services when the state EOC is activated. Administrative personnel may be required to work 12-hour shifts to support disaster emergency response and recovery operations.*

C. DEPARTMENT OF AGRICULTURE

1. *Act as the primary support agency for mitigation, preparedness, response and recovery activities as they pertain to agricultural issues.*
2. *Act as the primary support agency for securing information concerning agricultural issues during disaster emergencies.*
3. *Coordinate with local officials for the evacuation of domestic livestock and other animals, and the establishment of an evacuation reception area for appropriate animal care.*
4. *Coordinate feeding requirements and care arrangements for livestock and other animals evacuated, lost, or abandoned as a result of disaster.*

5. *Coordinate dead animal removal.*
6. *Assist with incident response and recovery activities when pesticides are involved.*
7. *Provide technical assistance concerning livestock health, disease control and preventive medicine.*
8. *Distribute medical supplies for livestock and other animals.*
9. *Inspect feed to ensure it is safe for livestock consumption.*
10. *Provide toxicological and other technical data on pesticides, fertilizers, plant and soil amendments and other chemicals to response personnel and the public.*
11. *Assist with the disposal of unusable pesticides, fertilizers and plant or soil amendments and help coordinate the transportation of these materials.*

D. STATE CONTROLLER

1. *Initiate the warrant payment process in order to fulfill fiscal obligations resulting from goods and services supplied by state agencies during emergency response and recovery operations.*
2. *Fulfill fiscal obligations to the extent possible that monies exist in the state treasury.*

E. DEPARTMENT OF COMMERCE

1. *Act as the primary support agency for mitigation, preparedness, response and recovery activities related to economic injury/losses as a result of disasters.*
2. *Provide an economic impact analysis of the effects of disasters or emergencies when requested by the Bureau of Disaster Services or other state agencies.*
3. *Provide assistance to local government as coordinated by the Bureau of Disaster Services.*

F. DEPARTMENT OF CORRECTIONS

1. *Provide personnel for emergency response and recovery assistance.*

G. STATE BOARD OF EDUCATION

1. *State Department of Education*
 - a. *Coordinate the development of emergency disaster plans for all local school district buildings to ensure the safety of school populations in time of emergency.*
 - b. *Assist local school districts and other qualifying agencies to develop a policy for*

the use of buses in an emergency.

c. Promote mitigation activities to reduce the risk from structural and nonstructural hazards in school facilities.

d. Assist in coordinating activities for damage assessments and damage surveys for school facilities.

e. Provide personnel to assist with damage assessment of public school facilities.

f. Coordinate the utilization of school facilities for reception, shelter, mass feeding and disaster application centers during natural or man-made disasters.

2. The Office of the State Board of Education

a. Coordinate the development of emergency disaster plans for colleges, universities and area vocational-technical facilities to ensure the safety of school populations in time of emergency.

b. Promote mitigation activities to reduce the risk from structural and nonstructural hazards in colleges, universities and area vocational-technical facilities.

c. Assist in coordinating activities for damage assessments and damage surveys for higher educational and area vocational-technical facilities.

d. Provide personnel to assist with damage assessment of colleges, universities and area vocational-technical facilities.

e. Coordinate the utilization of colleges, universities and area vocational-technical facilities for reception, shelter, mass feeding and disaster application centers during natural or man-made disasters.

H. DEPARTMENT OF EMPLOYMENT

1. Provide unemployment insurance claims service for disaster victims in the disaster application centers.

2. Provide re-employment assistance to unemployed individuals affected by a disaster emergency.

I. DEPARTMENT OF FISH AND GAME

1. Provide personnel to be used as auxiliary police during emergencies.

2. Assist in search and rescue operations.

3. Assess environmental impact of proposed emergency operations and suggest alternative methods or actions to minimize environmental damage.

4. Provide personnel for damage assessment and damage survey teams.

5. *Provide emergency communications.*

J. DEPARTMENT OF HEALTH AND WELFARE

1. *Coordinate emergency medical and health services throughout the state. Such responsibilities include development of general plans for public health and sanitation; emergency medical assistance; identification and mortuary services; mass care and feeding management; crisis counseling; emergency social services; evacuation of sick and injured; and use of hospitals and other medical facilities.*

2. *Assess adequate supplies of potable water and coordinate with other appropriate state agencies.*

3. *Support implementation of the state's Individual Family Grant program during a presidentially-declared disaster.*

4. *Provide damage assessment and survey team personnel for health and welfare-related functional activities.*

5. *Assess environmental impact of proposed emergency operations and suggest alternative methods or actions to minimize environmental damage.*

6. *Provide emergency communications support, as coordinated by the Bureau of Disaster Services.*

7. *Provide food stamp and disaster welfare services.*

8. *Provide staff personnel to work in Disaster Application Centers.*

9. *Develop a plan for use of personnel and equipment on a regional basis.*

10. *Monitor the National Warning System (NAWAS) until relieved by the Bureau of Disaster Services.*

K. DEPARTMENT OF INSURANCE

1. *Provide insurance counseling services for disaster victims.*

2. *Prepare required insurance certifications for federal disaster assistance.*

3. *Develop, coordinate and maintain a statewide Fire Service and Rescue Emergency Mutual-Aid Plan. Provide a copy of the Fire Service and Rescue Emergency Mutual-Aid Plan to the Bureau of Disaster Services.*

L. DEPARTMENT OF LABOR AND INDUSTRIAL SERVICES

1. *Provide personnel for damage assessment and damage survey teams.*

2. *Promote and develop mitigation activities in conjunction with the Departments of*

Administration and Education.

M. DEPARTMENT OF LANDS

- 1. Develop and direct the state's mitigation, preparedness, response and recovery activities for State lands.*
- 2. Cooperate with federal and local governments in developing plans for and directing activities relating to the prevention and control of wildland fires.*
- 3. Develop plans and direct activities for the emergency protection, management and utilization of land resources, and facilities under the state's jurisdiction.*
- 4. Provide emergency communications assistance.*

N. DEPARTMENT OF LAW ENFORCEMENT

- 1. Develop and direct mitigation, preparedness and response programs for civil disorder and terrorism.*
- 2. Provide for the safety and protection of personnel including evacuation, warning, scene protection, traffic controls, etcetera.*
- 3. Coordinate all requests for additional state law enforcement.*
- 4. Coordinate with the Bureau of Disaster Services for response and recovery disaster operations in a crime scene.*
- 5. Operate a statewide emergency communication system which will be designated as the primary system during an emergency.*
- 6. Alert state agencies and local governments of impending threats.*
- 7. Enforce statewide emergency traffic controls and evacuation plans.*
- 8. Provide damage assessment and information on disaster incidents to the Bureau of Disaster Services.*
- 9. Provide brand inspection personnel to determine ownership of animals.*
- 10. Assist in search and rescue operations.*
- 11. Develop a plan for use of personnel and equipment on a regional basis.*
- 12. Provide for mobile radiological monitoring as directed and coordinated by the Bureau of Disaster Services.*
- 13. Develop, coordinate, and maintain a statewide Law Enforcement and Search and Rescue Mutual-Aid Plan. Provide a copy of the Law Enforcement and Search and Rescue Mutual-Aid Plan to the Bureau of Disaster Services.*

O. DEPARTMENT OF PARKS AND RECREATION

1. Provide lands and facilities as mass care and feeding centers during emergencies and disasters.

2. Provide trained personnel for damage assessment and damage survey teams.

P. DEPARTMENT OF REVENUE AND TAXATION

1. Provide tax counseling services for disaster victims as coordinated by the Bureau of Disaster Services.

Q. TRANSPORTATION DEPARTMENT

1. Provide engineering support to the Bureau of Disaster Services for emergency planning and mitigation including: storms, avalanches, landslides, mudslides and volcanic eruptions.

2. Develop a plan for use of personnel and equipment on a regional basis.

3. Provide debris removal services as coordinated by the Bureau of Disaster Services.

4. Provide engineering services, repair and maintenance of state highways, bridges and airfields and resources for debris clearance.

5. Develop and implement emergency highway traffic regulations.

6. Coordinate aviation activities within the state, to include the requirement for restricted air space within the disaster area.

7. Provide aviation resources for evacuation, search and rescue operations, and aerial radiological monitoring as coordinated by the Bureau of Disaster Services.

8. Operate a statewide emergency communications system which will be designated as an alternate emergency communications system during an emergency.

9. Activate "Plan Bulldozer" when requested by the Bureau of Disaster Services.

10. Provide specialized heavy construction and transport equipment with operators as coordinated by the Bureau of Disaster Services.

R. DEPARTMENT OF WATER RESOURCES

1. Develop mitigation, preparedness and response programs for flood, drought, and energy shortages in concert with the Bureau of Disaster Services.

2. Conduct dam safety inspections and supervise dam safety practices during times of flooding or imminent failure.

3. *Advise the Bureau of Disaster Services of impending emergency conditions such as imminent failure or other conditions involving dam safety.*
4. *Coordinate operation of water structures to minimize flood damage, allow emergency maintenance and repairs to protect life and property during impending or actual occurrence of a disaster.*
5. *Establish procedures to grant stream channel protection waivers to entities involved in emergency flood fight situations and when channel work is necessary on an emergency basis to protect life and property.*
6. *Assist agencies and individuals in obtaining emergency authorization from the Corps of Engineers, U.S. Army, under Public Law 92-500, to conduct flood control activities in waterways.*
7. *Provide trained personnel to coordinate emergency activities with state and local officials before, during, and after flood emergencies.*
8. *Provide personnel for damage assessment and damage survey teams.*
9. *Provide assistance in finding and obtaining alternative water supplies during drought emergencies.*
10. *Assist the Department of Health and Welfare in assuring adequate supplies of potable water.*
11. *Provide emergency communications, as coordinated by the Bureau of Disaster Services.*

S. **PUBLIC UTILITIES COMMISSION**

1. *Assist with energy shortages mitigation, preparedness, response and recovery.*

T. **DIVISION OF FINANCIAL MANAGEMENT**

1. *Coordinate and develop a fiscal impact analysis of the effects of a disaster emergency upon request by the Bureau of Disaster Services.*

U. **IDAHO GEOLOGICAL SURVEY**

1. *Formulate and direct the State's geologic hazard reduction effort by providing hazard identification, analysis, and mapping of the geologic threats.*
2. *Provide a geologic representative(s) for damage assessment, damage survey, and hazard mitigation teams which involve geologic hazards.*

V. **MILITARY DIVISION**

1. *National Guard:*

a. *Provide military support to civil authorities on the employment of military forces during a disaster emergency in accordance with federal and state laws and regulations.*

b. *Provide specific guidance as required for emergency preparedness planning and programming for state military forces.*

c. *Establish a statewide military emergency communications system. During emergencies, maintain communications between the state Emergency Operations Center and State Military Headquarters. Develop a capability for utilization of radio communications between the state military forces, state Highway Districts, and civil law enforcement agencies. Provide a mobile communications center for joint military/civil use as required at the scene of operations during emergencies.*

d. *Provide logistical assistance to state damage assessment and damage survey teams, as well as Disaster Field Office operations.*

2. *Bureau of Disaster Services:*

a. *Assist local governments with the development of all-hazard mitigation, preparedness, response, and recovery plans, training and exercises.*

b. *Administer federal programs of disaster emergency planning and assistance pertinent to state and local governments.*

c. *Provide training and exercising of the State Emergency Plan and Federal Response Plan.*

d. *Provide training for state agency personnel in mitigation, preparedness, response and recovery operations.*

e. *Create a statewide Radiological Disaster Planning activity within the Bureau of Disaster Services focusing on the transportation corridors in the 44 counties and with emphasis on radiological risks associated with activities related to the Idaho National Engineering Laboratory.*

w. *OFFICE ON AGING*

1. *Arrange for representation in the Disaster Application Center when requested.*

2. *Provide information on the effects of the disaster emergency on the elderly.*

3. *Develop area-wide plans for the following:*

a. *Assess the needs of the elderly and home-bound elderly.*

b. *Coordination of senior services through area Office on Aging field offices during natural or man-made disasters.*

c. *Provide information/assistance to their clientele.*

- d. Utilization of senior citizen centers for shelter, mass feeding and rest centers.
- e. Identification of home-bound isolated elderly.

IV. EMERGENCY ACTIONS

Any emergency preparedness function under this Order or parts thereof may be transferred from one governmental agency to another with the consent of the heads of the agencies involved and with the concurrence of the Chief, Bureau of Disaster Services. Any new emergency preparedness function may be assigned to the head of a governmental agency by the Chief, Bureau of Disaster Services, by mutual consent.

The head of each governmental agency is hereby authorized to delegate the functions assigned to him by this Order.

This Order repeals and replaces Executive Order No. 91-19.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capitol, the _____ day of _____, in the year of our Lord nineteen hundred ninety-six, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-02

ESTABLISHMENT OF NON-SMOKING POLICY IN STATE BUILDINGS

REPEALING AND REPLACING EXECUTIVE ORDER NO. 92-02

WHEREAS, there is need for a uniform state policy relating to smoking in state-owned and state-leased buildings; and

WHEREAS, it is the state's duty to protect the public health and safety, and to protect public buildings against fire damage and other related property damage; and

WHEREAS, the recent fire in the State Capitol has increased the awareness of the dangers and consequences of smoking;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the State of Idaho, have determined that a non-smoking policy in public buildings is a prudent one; therefore, I hereby direct that the following policy shall govern officers and employees of the State of Idaho:

All state-owned or state-leased buildings, facilities, or areas occupied by state employees shall henceforth be designated as "non-smoking" except for custodial care and full-time residential facilities. The policy governing custodial care and full-time residential facilities may be determined by the directors of such facilities.

FURTHER, I hereby encourage all employees in the State of Idaho to promote a non-smoking policy in all buildings occupied by state employees.

This Executive Order repeals and replaces Executive Order 92-02.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capitol, the _____ day of _____, in the year of our Lord nineteen hundred ninety-six, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE

EXECUTIVE ORDER NO. 96-03

ESTABLISH THE CAPITOL MALL AREA AS A WEAPON FREE ZONE

WHEREAS, the protection of elected officials and employees of state government from the potential threat of weapons in the work environment is a vital concern; and

WHEREAS, it is in the best interests of state officials, employees and the general public, and the efficient and safe operation of state government, to ensure the highest level of safety in the Capitol Mall Area; and

WHEREAS, there is currently no restriction on the possession of weapons in the Capitol Mall Area; and

WHEREAS, allowing state elected officials and peace officers the ability to continue to carry a weapon in the Capitol Mall Area is necessary for the protection of the elected officials, state employees, and the general public;

NOW, THEREFORE, I, PHILIP E. BATT, Governor of the state of Idaho, by the authority vested in me under the Constitution and laws of this state do hereby order as follows:

1. *Unless expressly exempted below, possession of a weapon in the Capitol Mall Area by any individual at any time is expressly prohibited.*

2. *The following individuals are exempt from this Executive Order:*

a. *State Elected Officials;*

b. *Peace officers as defined in Idaho Code Section 19-5101;*

c. *Criminal investigators of the attorney general's office or a county prosecuting attorney's office; and*

d. *Individuals or organizations displaying weapons as part of a historical or cultural presentation who have received written permission from the Office of the Governor.*

3. *The term "weapon" means: (1) any type of firearm or (2) any knife or similar object which has a blade in excess of six (6) inches in length.*

4. *"Capitol Mall Area" means: the Statehouse, Joe R. Williams Building (700 West State Street); Len B. Jordan Building (650 West State Street); State Parking Garage (550 West State Street) and the Towers Building (450 West State Street), including*

all underground tunnels which provide a walkway between these buildings.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho, at Boise the Capitol, the _____ day of _____, in the year of our Lord nineteen hundred ninety-five, and of the Independence of the United States of America the two hundred twentieth, and of the Statehood of Idaho the one hundred sixth.

PHILIP E. BATT
GOVERNOR

PETE T. CENARRUSA
SECRETARY OF STATE

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

DOCKET NO. 16-0101-9504

NOTICE OF PENDING AND TEMPORARY RULE

EFFECTIVE DATE: The temporary rule is effective March 1, 1996. The pending rule becomes final and effective on July 1, 1997 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending/temporary rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending/temporary rule and a statement of any change between the text of the proposed rule and the text of the pending/temporary rule with an explanation of the reasons for any change.

This rule specifically exempts used oil fired space heaters from the permit to construct provisions of the Rules for the Control of Air Pollution in Idaho (Air Quality Rules). Currently these devices are not specifically addressed in the rules. Consequently, those individuals who wish to install and use such heaters cannot readily determine if there are any Air Quality Rules that may apply to them. In addition, regional inspectors have no regulatory framework in which to operate when investigating complaints by the public about incorrectly installed or operated heaters. These heaters are regulated in part by the Resource Conservation and Recovery Act (RCRA). The rule incorporates the federal RCRA regulations as well as adding some minimal stack and heater design requirements necessary to protect the public health and the environment. An owner or operator whose space heater qualifies for the exemption will therefore be assured of also being in compliance with the federal RCRA regulations.

The rule provides that: the heater uses only used oil that is generated on site or is received from household oil generators and the used oil is not contaminated with added substances such as solvents, antifreeze or other household or industrial chemicals; the heater is designed to have a maximum capacity of not more than 0.5 million BTU/hr; the combustion gasses are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer and installed to minimize down-wash and maximize dispersion; and the heater is of modern commercial design and manufacture with the exception that a homemade heater can be used so long as it can be demonstrated that emissions from the homemade heater are no greater than those from a modern commercially available unit.

The rule has been modified at IDAPA 16.01.01 Section 223.03.h.i. in accordance with Idaho Code Section 67-5227 and, therefore, has been republished with this Notice.

The Idaho Department of Health and Welfare, Division of Environmental Quality's rulemaking record is maintained at the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706. The Rulemaking and Public Comment Summary, which contains a

complete consideration of the issues raised by the public, is included in the rulemaking record.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule is reasonably necessary to protect public health.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact Tim Teater at (208)373-0502.

DATED this 3rd day of April, 1996.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

TEXT OF DOCKET NO. 16-0101-9504

223. CATEGORY IV EXEMPTION.

No permit to construct is required for Category IV sources. Category IV sources must comply with all of the following requirements. (5-1-94)

01. Less Than One Hundred Tons. Have actual and potential emissions of less than one hundred (100) tons per year of any air pollutant. (5-1-94)
02. Significant Increase. Not significantly increase the emissions of a major facility. (5-1-94)
03. Specified Sources. Be any of the below listed sources: (5-1-94)
 - a. Air conditioning or ventilating equipment not designed to remove air pollutants generated by or released from equipment. (5-1-94)
 - b. Air pollutant detectors or recorders, combustion controllers, or combustion shutoffs. (5-1-94)
 - c. Fuel burning equipment for indirect heating and for heating and reheating furnaces using natural gas, propane gas, liquified petroleum gas exclusively with a capacity of less than fifty (50) million btu's per hour input. (5-1-94)
 - d. Other fuel burning equipment for indirect heating with a capacity of less

than one million (1,000,000) btu's per hour input. (5-1-94)

e. Mobile internal combustion engines, marine installations and locomotives. (5-1-94)

f. Agricultural activities and services. (5-1-94)

g. Retail gasoline, natural gas, propane gas, liquified petroleum gas, distillate fuel oils and diesel fuel sales. (5-1-94)

h. Used Oil Fired Space Heaters which comply with all the following requirements: (3-1-96)T

i. The used oil fired space heater burns only used oil that the owner or operator generates on site, that is derived from households, such as used oil generated by individuals maintaining their personal vehicles, or on-specification used oil that is derived from commercial generators provided that the generator, transporter and owner or operator burning the oil for energy recovery comply fully with IDAPA 16.01.05.015, Rules and Standards for Hazardous Waste.: (3-1-96)T

1. For the purposes of Section 223.03.h., "used oil" refers to any oil that has been refined from crude oil or any synthetic oil that has been used and, as a result of such use, is contaminated by physical or chemical impurities. (3-1-96)T

2. For the purposes of Section 223.03.h., "used oil fired space heater" refers to any furnace or apparatus and all appurtenances thereto, designed, constructed and used for combusting used oil for energy recovery to directly heat an enclosed space. (3-1-96)T

ii. Any used oil burned is not contaminated by added toxic substances such as solvents, antifreeze or other household and industrial chemicals: (3-1-96)T

iii. The used oil fired space heater is designed to have a maximum capacity of not more than 0.5 million BTU per hour: (3-1-96)T

iv. The combustion gases from the used oil fired space heater are vented to the ambient air through a stack equivalent to the type and design specified by the manufacturer of the heater and installed to minimize down wash and maximize dispersion; and (3-1-96)T

v. The used oil fired space heater is of modern commercial design and manufacture, except that a homemade used oil fired space heater may be used if, prior to the operation of the homemade unit, the owner or operator submits documentation to the Department demonstrating, to the satisfaction of the Department, that emissions from the homemade unit are no greater than those from modern commercially available units. (3-1-96)T

ih. Any other source specifically exempted by the Department. A list of those sources unconditionally exempted by the Department will be maintained by the Department and made available upon written request. (5-1-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.01.02 - WATER QUALITY STANDARDS AND
WASTEWATER TREATMENT REQUIREMENTS**

DOCKET NO. 16-0102-9601

NOTICE OF TEMPORARY RULE

EFFECTIVE DATE: The temporary rule is effective February 16, 1996.

AUTHORITY: In compliance with Section 67-5226(1), Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise statement of the supporting reasons for adopting the temporary rule:

In June 1994, Idaho adopted EPA's National Toxics Rule (NTR) with dissolved metals criteria conversion factors consistent with EPA's 1993 guidance. EPA recently revised the NTR to include new dissolved metals criteria conversion factors which are less stringent than those adopted by Idaho. This situation had an immediate effect upon dischargers seeking discharge permits from EPA. EPA indicated they would use Idaho's more stringent factors in their NPDES permits.

This amendment to IDAPA 16.01.02 Section 250.07 revises Idaho's metals criteria conversion factors consistent with the latest NTR. Until adoption of this rule, Idaho was in a position of being more stringent than the federal government. As a result of adoption of this rule, Idaho is no longer more stringent than the federal government and dischargers will no longer be adversely affected by this inconsistency.

The Legislative Service's Office has imposed a moratorium on proposed rules which prohibits agencies from publishing proposed rules until May 1996. The Department intends to publish a Notice of Proposed Rule in the May 1996 issue of the Idaho Administrative Bulletin inviting the public to comment on the rule published with this notice. The text of the rule will not be republished with the Notice of Proposed Rule.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit to dischargers of metal pollutants into waters of the state including, but not limited to, publicly-owned treatment works, industrial facilities, and mining operations because adoption of this rule makes the Idaho rules no more stringent than the federal regulations.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact Mark Shumar at (208)373-0502.

DATED this 3rd day of April, 1996.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

TEXT OF DOCKET 16-0102-9601

250. SURFACE WATER QUALITY CRITERIA FOR USE CLASSIFICATIONS.

The following water quality criteria apply to surface waters of the state according to the designated beneficial uses on a water body. (8-24-94)

- 01. Recreation. (7-1-93)
 - a. Primary contact recreation: between May 1 and September 30 of each calendar year, waters designated for primary contact recreation are not to contain fecal coliform bacteria significant to the public health in concentrations exceeding: (7-1-93)
 - i. 500/100 ml. at any time; and (7-1-93)
 - ii. 200/100 ml. in more than ten percent (10%) of the total samples taken over a thirty (30) day period; and (7-1-93)
 - iii. A geometric mean of 50/100 ml. based on a minimum of five (5) samples taken over a thirty (30) day period. (7-1-93)
 - b. Secondary contact recreation: waters designated for secondary contact recreation are not to contain fecal coliform bacteria significant to the public health in concentrations exceeding: (7-1-93)
 - i. 800/100 ml. at any time; and (7-1-93)
 - ii. 400/100 ml. in more than ten percent (10%) of the total samples taken over a thirty (30) day period; and (7-1-93)
 - iii. A geometric mean of 200/100 ml. based on a minimum of five (5) samples taken over a thirty (30) day period. (7-1-93)
 - c. Primary and Secondary Contact Recreation: All toxic substance criteria set forth in 40 CFR 131.36(b)(1), Column D2, revised as of December 22, 1992, effective February 5, 1993 (57 FR 60848, December 22, 1992). 40 CFR 131.36(b)(1) is hereby incorporated by reference in the manner provided in subsection 250.07; provided, however the standard for arsenic shall be 6.2 ug/L for Column D2 (which constitutes a recalculation to reflect an appropriate bioconcentration factor for fresh water). (3-8-95)
- 02. Aquatic Life. (7-1-93)
 - a. General Criteria. The following criteria apply to all aquatic life use classifications: (8-24-94)
 - i. Hydrogen Ion Concentration (pH) values within the range of 6.5 to 9.5; (7-1-93)

ii. The total concentration of dissolved gas not exceeding one hundred and ten percent (110%) of saturation at atmospheric pressure at the point of sample collection; (7-1-93)

iii. Total chlorine residual. (8-24-94)

(1) One (1) hour average concentration not to exceed 19 ug/l (8-24-94)

(2) Four (4) day average concentration not to exceed 11 ug/l. (8-24-94)

iv. All toxic substance criteria set forth in 40 CFR 131.36(b)(1), Columns B1, B2 and D2, revised as of December 22, 1992, effective February 5, 1993 (57 FR 60848, December 22, 1992) provided, however, the standard for arsenic shall be 6.2 ug/L for Column D2 (which constitutes a recalculation to reflect an appropriate bioconcentration factor for fresh water). 40 CFR 131.36(b)(1) is hereby incorporated by reference in the manner provided in subsection 250.07. (3-8-95)

b. Warm water biota: waters designated for warm water biota are to exhibit the following characteristics: (7-1-93)

i. Dissolved oxygen concentrations exceeding 5 mg/l at all times. In lakes and reservoirs this standard does not apply to: (7-1-93)

(1) The bottom twenty percent (20%) of the water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (7-1-93)

(2) The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (7-1-93)

(3) Those waters of the hypolimnion in stratified lakes and reservoirs. (7-1-93)

ii. Water temperatures of thirty-three (33) degrees C or less with a maximum daily average not greater than twenty-nine (29) degrees C. (8-24-94)

iii. Ammonia. (8-24-94)

(1) One-hour average concentration of un-ionized ammonia (as N) is not to exceed $(0.43/A/B/2)$ mg/l, where:

A = 0.7 if the water temperature (T) is greater than or equal to 25 degrees C (if T > 30 degrees C site-specific criteria should be defined), or

A = $10^{\text{power}(0.03(20-T))}$ if T is less than 25 degrees C, and

B = 1 if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined), or

B = $(1 + 10^{\text{power}(7.4-\text{pH})})/1.25$ if pH is less than 8 (if pH \leq 6.5 site-specific criteria should be defined). (8-24-94)

(i) The following Table gives one-hour average criteria for un-ionized ammonia (mg/l as N) at various water temperatures and pH values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia criterion. (8-24-94)

**TABLE I--WARM WATER BIOTA: ONE-HOUR AVERAGE
 CRITERIA FOR UN-IONIZED
 (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/1 as N)
 AT SELECTED WATER TEMPERATURES AND PH VALUES.**

WATER TEMP. (DEGREES C)	pH						
	6.50	6.60	6.80	7.00	7.20	7.40	7.60
0.00	0.01	0.01	0.01	0.02	0.03	0.03	0.04
	28.92	28.07	26.01	23.27	19.94	16.31	12.62
2.00	0.01	0.01	0.02	0.02	0.03	0.04	0.05
	28.05	27.26	25.26	22.59	19.35	15.82	12.25
4.00	0.01	0.01	0.02	0.03	0.03	0.04	0.05
	27.34	26.52	24.57	22.03	18.92	15.40	11.94
6.00	0.0	0.01	0.02	0.03	0.04	0.05	0.06
	26.63	25.93	23.99	21.55	18.47	15.07	11.67
8.00	0.01	0.02	0.02	0.03	0.05	0.06	0.07
	26.08	25.35	23.55	21.01	18.01	14.74	11.44
10.00	0.02	0.02	0.03	0.04	0.05	0.07	0.08
	25.57	24.87	23.11	20.62	17.72	14.45	11.22
12.00	0.02	0.02	0.03	0.04	0.06	0.08	0.09
	25.13	24.43	22.66	20.29	17.39	14.21	11.04
14.00	0.02	0.02	0.04	0.05	0.07	0.09	0.11
	24.76	24.05	22.28	19.98	17.13	14.03	10.89
16.00	0.02	0.03	0.04	0.06	0.08	0.10	0.12
	24.43	23.84	22.00	19.75	16.92	13.85	10.78
18.00	0.03	0.03	0.05	0.07	0.09	0.12	0.14
	24.23	23.55	21.76	19.49	16.77	13.70	10.63
20.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16

WATER TEMP.	pH						
(DEGREES C)	6.50	6.60	6.80	7.00	7.20	7.40	7.60
	24.04	23.27	21.58	19.32	16.61	13.60	10.56
22.00	0.03	0.04	0.06	0.09	0.12	0.15	0.19
	23.79	23.07	21.44	19.23	16.51	13.53	0.51
24.00	0.04	0.05	0.07	0.10	0.14	0.18	0.22
	23.72	22.97	21.36	19.14	16.45	3.52	0.49
26.00	0.04	0.05	0.08	0.11	0.15	0.19	0.24
	22.24	21.70	20.07	18.01	15.50	2.71	9.93
28.00	0.04	0.05	0.08	0.11	0.15	0.19	0.24
	19.43	18.83	17.48	15.68	13.50	1.10	8.65
30.00	0.04	0.05	0.08	0.11	0.15	0.19	0.24
	16.90	16.41	15.23	13.68	11.79	9.70	7.57

WATER TEMP.	pH						
DEGREES C	7.80	8.00	8.20	8.40	8.60	8.80	9.00
0.00	0.05	0.05	0.05	0.05	0.05	0.05	0.05
	9.30	6.59	4.19	2.66	1.69	1.09	0.71
2.00	0.06	0.06	0.06	0.06	0.061	0.06	0.06
	9.04	6.41	4.05	2.58	1.65	1.07	0.70
4.00	0.06	0.07	0.07	0.07	0.07	0.07	0.07
	8.82	6.25	3.98	2.53	1.62	1.05	0.69
6.00	0.07	0.08	0.08	0.08	0.08	0.08	0.08
	8.82	6.10	3.89	2.48	1.60	1.04	0.69
8.00	0.08	0.09	0.09	0.09	0.09	0.09	0.09
	8.44	5.98	3.82	2.44	1.57	1.03	0.69
10.00	0.10	0.11	0.11	0.11	0.11	0.11	0.11
	8.31	5.89	3.75	2.41	1.56	1.03	0.69
12.00	0.11	0.12	0.12	0.12	0.12	0.12	0.12

WATER TEMP. DEGREES C	pH						
	7.80	8.00	8.20	8.40	8.60	8.80	9.00
	8.13	5.81	3.70	2.38	1.55	1.02	0.69
14.00	0.13	0.14	0.14	0.14	0.14	0.14	0.14
	8.04	5.73	3.67	2.37	1.55	1.03	0.70
16.00	0.15	0.16	0.16	0.16	0.16	0.16	0.16
	7.97	5.68	3.65	2.36	1.55	1.04	0.72
18.00	0.17	0.19	0.19	0.19	0.19	0.19	0.19
	7.90	5.66	3.64	2.36	1.56	1.05	0.73
20.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	7.88	5.63	3.63	2.37	1.57	1.08	0.76
22.00	0.22	0.25	0.25	0.25	0.25	0.25	0.25
	7.83	5.62	3.64	2.40	1.59	1.10	0.78
24.00	0.25	0.28	0.28	0.28	0.28	0.28	0.28
	7.82	5.63	3.66	2.42	1.63	1.13	0.82
26.00	0.27	0.31	0.31	0.31	0.31	0.31	0.31
	7.40	5.34	3.48	2.31	1.57	1.10	0.81
28.00	0.27	0.31	0.31	0.31	0.31	0.31	0.31
	6.48	4.68	3.07	2.05	1.41	1.00	0.75
30.00	0.27	0.31	0.31	0.31	0.31	0.31	0.31
	5.67	4.12	2.72	1.83	1.26	0.91	0.69

(2) Four-day average concentration of un-ionized ammonia (as N) is not to exceed $(0.66/A/B/C)$ mg/l, where:

A = 1.0 if the water temperature (T) is greater than or equal to 20 degrees C (if T > 30 degrees C site-specific criteria should be defined), or

A = $10^{\text{power}(0.03(20-T))}$ if T is less than 20 degrees C, and)

B = 1 if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined), or

B = $(1 + 10^{\text{power}(7.4-\text{pH})})/1.25$ if pH is less than 8 (if pH < 6.5 site-specific criteria should be defined), and

C = 13.5 if pH is greater than or equal to 7.7, or

C = $20(10^{(7.7-pH)} / (1 + 10^{(7.4-pH)}))$ if the pH is less than 7.7. (4-13-95)

(a) The following Table gives four-day average criteria for un-ionized ammonia (mg/l as N) at various water temperatures and pH values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia criterion. (8-24-94)

TABLE II--WARM WATER BIOTA: FOUR-DAY AVERAGE CRITERIA FOR UN-IONIZED (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N) AT SELECTED WATER TEMPERATURES AND PH VALUES.

WATER TEMP. DEGREES C	pH			
	6.5	6.6	6.8	7.0
0	0.0007	0.0008	0.0013	0.0021
	2.5	2.5	2.5	2.5
2	0.0008	0.0009	0.0015	0.0024
	2.5	2.5	2.5	2.5
4	0.0009	0.0011	0.0017	0.0027
	2.4	2.4	2.4	2.4
6	0.0010	0.0012	0.0020	0.0031
	2.3	2.3	2.3	2.3
8	0.0011	0.0014	0.0023	0.0036
	2.3	2.3	2.3	2.3
10	0.0013	0.0016	0.0026	0.0041
	2.3	2.3	2.3	2.3
12	0.0015	0.0019	0.0030	0.0047
	2.2	2.2	2.2	2.2
14	0.0017	0.0022	0.0034	0.0054
	2.2	2.2	2.2	2.2
16	0.0020	0.0025	0.0039	0.0062
	2.1	2.1	2.2	2.2
18	0.0023	0.0029	0.0045	0.0072

WATER TEMP.	pH			
DEGREES C	6.5	6.6	6.8	7.0
	2.1	2.1	2.1	2.1
20	0.0026	0.0033	0.0052	0.0082
	2.1	2.1	2.1	2.1
22	0.0026	0.0033	0.0052	0.0082
	1.8	1.8	1.8	1.8
24	0.0026	0.0033	0.0052	0.0082
	1.6	1.6	1.6	1.6
26	0.0026	0.0033	0.0052	0.0082
	1.37	1.37	1.37	1.38
28	0.0026	0.0033	0.0052	0.0082
	1.19	1.19	1.19	1.20
30	0.0026	0.0033	0.0052	0.0082
	1.04	1.04	1.04	1.04

WATER TEMP.	pH				
DEGREES C	7.2	7.4	7.6	7.8	8.0
0	0.0033	0.0052	0.0082	0.0110	0.0123
	2.5	2.5	2.6	2.2	1.52
2	0.0038	0.0060	0.0094	0.0126	0.0141
	2.5	2.5	2.5	2.1	1.48
4	0.0043	0.0068	0.0108	0.0145	0.0162
	2.4	2.4	2.4	2.0	1.44
6	0.0050	0.0079	0.0125	0.0166	0.0186
	2.4	2.4	2.4	2.0	1.41
8	0.0057	0.0090	0.0143	0.0191	0.0213
	2.3	2.3	2.3	2.0	1.38
10	0.0065	0.0104	0.0164	0.0219	0.0245

WATER TEMP.	pH				
DEGREES C	7.2	7.4	7.6	7.8	8.0
	2.3	2.3	2.3	1.9	1.36
12	0.0075	0.0119	0.0189	0.0252	0.0281
	2.2	2.2	2.2	1.9	1.34
14	0.0086	0.0137	0.0216	0.0289	0.0323
	2.2	2.2	2.2	1.9	1.32
16	0.0099	0.0157	0.0249	0.0332	0.0371
	2.2	2.2	2.2	1.8	1.31
18	0.0114	0.0180	0.0285	0.0381	0.0426
	2.1	2.1	2.2	1.8	1.30
20	0.0130	0.0207	0.0328	0.0437	0.0489
	2.1	2.1	2.1	1.8	1.30
22	0.0130	0.0207	0.0328	0.0437	0.0489
	1.8	1.8	1.9	1.6	1.13
24	0.0130	0.0207	0.0328	0.0437	0.0489
	1.6	1.6	1.6	1.4	0.98
26	0.0130	0.0207	0.0328	0.0437	0.0489
	1.38	1.39	1.40	1.19	0.86
28	0.0130	0.0207	0.0328	0.0437	0.0489
	1.20	1.21	1.22	1.04	0.76
30	0.0130	0.0207	0.0328	0.0437	0.0489
	1.05	1.06	1.07	0.92	0.66

WATER TEMP.	pH				
DEGREES C	8.2	8.4	8.6	8.8	9.0
0	0.0123	0.0123	0.0123	0.0123	0.0123
	0.97	0.61	0.39	0.25	0.163
2	0.0141	0.0141	0.0141	0.0141	0.0141

WATER TEMP. DEGREES C	pH				
	8.2	8.4	8.6	8.8	9.0
	0.94	0.60	0.38	0.25	0.161
4	0.0162	0.0162	0.0162	0.0162	0.0162
	0.92	0.58	0.37	0.24	0.159
6	0.0186	0.0186	0.0186	0.0186	0.0186
	0.90	0.57	0.37	0.24	0.158
8	0.0213	0.0213	0.0213	0.0213	0.0213
	0.88	0.56	0.36	0.24	0.158
10	0.0245	0.0245	0.0245	0.0245	0.0245
	0.87	0.56	0.36	0.24	0.158
12	0.0281	0.0281	0.0281	0.0281	0.0281
	0.86	0.55	0.36	0.24	0.159
14	0.0323	0.0323	0.0323	0.0323	0.0323
	0.85	0.55	0.36	0.24	0.162
16	0.0371	0.0371	0.0371	0.0371	0.0371
	0.84	0.54	0.36	0.24	0.165
18	0.0426	0.0426	0.0426	0.0426	0.0426
	0.84	0.54	0.36	0.24	0.169
20	0.0489	0.0489	0.0489	0.0489	0.0489
	0.84	0.55	0.36	0.25	0.174
22	0.0489	0.0489	0.0489	0.0489	0.0489
	0.73	0.48	0.32	0.22	0.157
24	0.0489	0.0489	0.0489	0.0489	0.0489
	0.64	0.42	0.28	0.20	0.142
26	0.0489	0.0489	0.0489	0.0489	0.0489
	0.56	0.37	0.25	0.18	0.130
28	0.0489	0.0489	0.0489	0.0489	0.0489
	0.49	0.33	0.23	0.16	0.120
30	0.0489	0.0489	0.0489	0.0489	0.0489
	0.44	0.29	0.20	0.146	0.110

c. Cold water biota: waters designated for cold water biota are to exhibit the following characteristics: (7-1-93)

i. Dissolved Oxygen Concentrations exceeding 6 mg/l at all times. In lakes and reservoirs this standard does not apply to: (7-1-93)

(1) The bottom twenty percent (20%) of water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (7-1-93)

(2) The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (7-1-93)

(3) Those waters of the hypolimnion in stratified lakes and reservoirs. (7-1-93)

ii. Water temperatures of 22 degrees C or less with a maximum daily average of no greater than 19 degrees C. (8-24-94)

iii. Ammonia. (8-24-94)

(1) One-hour average concentration of un-ionized ammonia (as N) is not to exceed $(0.43/A/B/2)$ mg/l, where:

A = 1 if the water temperature (T) is greater than or equal to 20 degrees C (if T > 30 degrees C site-specific criteria should be defined), or

A = $10^{\text{power}(0.03(20-T))}$ if T is less than 20 degrees C, and

B = 1 if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined); or

B = $(1 + 10^{\text{power}(7.4-\text{pH})})/1.25$ if pH is less than 8 (if pH < 6.5 site-specific criteria should be defined). (8-24-94)

(i) The following Table gives one-hour average criteria for un-ionized ammonia (mg/l as N) at various water temperatures and pH values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia criterion. (8-24-94)

**TABLE III--COLD WATER BIOTA: ONE-HOUR AVERAGE
 CRITERIA FOR UN-IONIZED
 (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/l as N)
 AT SELECTED WATER TEMPERATURES AND PH VALUES.**

WATER TEMP. DEGREES C	pH						
	6.50	6.60	6.80	7.00	7.20	7.40	7.60
0.00	0.01	0.01	0.01	0.02	0.03	0.03	0.04
	28.92	28.07	26.01	23.27	19.94	16.31	12.62
2.00	0.01	0.01	0.02	0.02	0.03	0.04	0.05
	28.05	27.26	25.26	22.59	19.35	15.82	12.25
4.00	0.01	0.01	0.02	0.03	0.03	0.04	0.05
	27.34	26.52	24.57	22.03	18.92	15.40	11.94
6.00	0.01	0.01	0.02	0.03	0.04	0.05	0.06
	26.63	25.93	23.99	21.55	18.47	15.07	11.67
8.00	0.01	0.02	0.02	0.03	0.05	0.06	0.07
	26.08	25.35	23.55	21.01	18.01	14.74	11.44
10.00	0.02	0.02	0.03	0.04	0.05	0.07	0.08
	25.57	24.87	23.11	20.62	17.72	14.45	11.22
12.00	0.02	0.02	0.03	0.04	0.06	0.08	0.09
	25.13	24.43	22.66	20.29	17.39	14.21	11.04
14.00	0.02	0.02	0.04	0.05	0.07	0.09	0.11
	24.76	24.05	22.28	19.98	17.13	14.03	10.89
16.00	0.02	0.03	0.04	0.06	0.08	0.10	0.12
	24.43	23.84	22.00	19.75	16.92	13.85	10.78
18.00	0.03	0.03	0.05	0.07	0.09	0.12	0.14
	24.23	23.55	21.76	19.49	16.77	13.70	10.63
20.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	24.04	23.27	21.58	19.32	16.61	13.60	10.56
22.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	20.72	20.09	18.67	16.75	14.38	11.79	9.15
24.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16

WATER TEMP.	pH						
DEGREES C	6.50	6.60	6.80	7.00	7.20	7.40	7.60
	17.99	17.43	16.20	14.52	12.48	10.26	7.96
26.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	15.57	15.19	14.05	12.61	10.85	8.90	6.95
28.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	13.60	13.18	12.23	10.98	9.45	7.77	6.06
30.00	0.03	0.04	0.05	0.08	0.10	0.13	0.16
	11.83	11.49	10.66	9.58	8.25	6.79	5.30

WATER TEMP.	pH						
DEGREES C	7.80	8.00	8.20	8.40	8.60	8.80	9.00
0.00	0.05	0.05	0.05	0.05	0.05	0.05	0.05
	9.30	6.59	4.19	2.66	1.69	1.09	0.71
2.00	0.06	0.06	0.06	0.06	0.06	0.06	0.06
	9.04	6.41	4.05	2.58	1.65	1.07	0.70
4.00	0.06	0.07	0.07	0.07	0.07	0.07	0.07
	8.82	6.25	3.98	2.53	1.62	1.05	0.69
6.00	0.07	0.08	0.08	0.08	0.08	0.08	0.08
	8.82	6.10	3.89	2.48	1.60	1.04	0.69
8.00	0.08	0.09	0.09	0.09	0.09	0.09	0.09
	8.44	5.98	3.82	2.44	1.57	1.03	0.69
10.00	0.10	0.11	0.11	0.11	0.11	0.11	0.11
	8.31	5.89	3.75	2.41	1.56	1.03	0.69
12.00	0.11	0.12	0.12	0.12	0.12	0.12	0.12
	8.13	5.81	3.70	2.38	1.55	1.02	0.69
14.00	0.13	0.14	0.14	0.14	0.14	0.14	0.14
	8.04	5.73	3.67	2.37	1.55	1.03	0.70
16.00	0.15	0.16	0.16	0.16	0.16	0.16	0.16

WATER TEMP. DEGREES C	pH						
	7.80	8.00	8.20	8.40	8.60	8.80	9.00
	7.97	5.68	3.65	2.36	1.55	1.04	0.72
18.00	0.17	0.19	0.19	0.19	0.19	0.19	0.19
	7.90	5.66	3.64	2.36	1.56	1.05	0.73
20.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	7.88	5.63	3.63	2.37	1.57	1.08	0.76
22.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	6.82	4.90	3.17	2.09	1.39	0.96	0.68
24.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	5.93	4.27	2.77	1.84	1.24	0.86	0.62
26.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	5.18	3.74	2.44	1.62	1.10	0.77	0.57
28.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	4.53	3.28	2.15	1.43	0.99	0.70	0.52
30.00	0.19	0.22	0.22	0.22	0.22	0.22	0.22
	3.97	2.88	1.90	1.28	0.88	0.64	0.48

(2) Four-day average concentration of un-ionized ammonia (as N) is not to exceed $(0.66/A/B/C)$ mg/l, where:

A = 1.4 if the water temperature (T) is greater than or equal to 15 degrees C (if T > 30 degrees C site-specific criteria should be defined), or

A = $10^{\text{power}(0.03(20-T))}$ if T is less than 15 degrees C, and

B = 1 if the pH is greater than or equal to 8 (if pH > 9.0 site-specific criteria should be defined), or

B = $(1 + 10^{\text{power}(7.4-\text{pH})})/1.25$ if pH is less than 8 (if pH < 6.5 site-specific criteria should be defined), and

C = 13.5 if pH is greater than or equal to 7.7, or

C = $20(10^{\text{power}(7.7-\text{pH})}/(1 + 10^{\text{power}(7.4-\text{pH})}))$ if the pH is less than 7.7. (4-13-95)

(i) The following Table gives four-day average criteria for un-ionized ammonia (mg/l as N) at various water temperatures and pH values. The corresponding total ammonia concentration (mg/l as N) is given below each un-ionized ammonia

criterion.

(8-24-94)

**TABLE IV--COLD WATER BIOTA: FOUR-DAY AVERAGE
 CRITERIA FOR UN-IONIZED
 (TOP) AND TOTAL (BOTTOM) AMMONIA (mg/1 as N)
 AT SELECTED WATER TEMPERATURES AND PH VALUES.**

WATER TEMP DEGREES C	pH				
	6.5	6.6	6.8	7.0	7.2
0	0.0007	0.0008	0.0013	0.0021	0.0033
	2.5	2.5	2.5	2.5	2.5
2	0.0008	0.0009	0.0015	0.0024	0.0038
	2.5	2.5	2.5	2.5	2.5
4	0.0009	0.0011	0.0017	0.0027	0.0043
	2.4	2.4	2.4	2.4	2.4
6	0.0010	0.0012	0.0020	0.0031	0.0050
	2.3	2.3	2.3	2.3	2.4
8	0.0011	0.0014	0.0023	0.0036	0.0057
	2.3	2.3	2.3	2.3	2.3
10	0.0013	0.0016	0.0026	0.0041	0.0065
	2.3	2.3	2.3	2.3	2.3
12	0.0015	0.0019	0.0030	0.0054	0.0075
	2.2	2.2	2.2	2.2	2.2
14	0.0017	0.0022	0.0034	0.0054	0.0086
	2.2	2.2	2.2	2.2	2.2
16	0.0019	0.0023	0.0037	0.0059	0.0093
	2.0	2.0	2.0	2.0	2.0
18	0.0019	0.0023	0.0037	0.0059	0.0093
	1.7	1.7	1.7	1.7	1.7
20	0.0019	0.0023	0.0037	0.0059	0.0093
	1.50	1.50	1.51	1.51	1.51
22	0.0019	0.0023	0.0037	0.0059	0.0093

WATER TEMP	pH				
DEGREES C	6.5	6.6	6.8	7.0	7.2
	1.30	1.30	1.30	1.30	1.31
24	0.0019	0.0023	0.0037	0.0059	0.0093
	1.13	1.13	1.13	1.13	1.13
26	0.0019	0.0023	0.0037	0.0059	0.0093
	0.98	0.98	0.98	0.98	0.99
28	0.0019	0.0023	0.0037	0.0059	0.0093
	0.85	0.85	0.85	0.86	0.86
30	0.0019	0.0023	0.0037	0.0059	0.0093
	0.74	0.74	0.74	0.75	0.75

WATER TEMP.	pH				
DEGREES C	7.4	7.6	7.8	8.0	8.2
0	0.0052	0.0082	0.0110	0.0123	0.0123
	2.5	2.6	2.2	1.52	0.97
2	0.0060	0.0094	0.0126	0.0141	0.0141
	2.5	2.5	2.1	1.48	0.94
4	0.0068	0.0108	0.0145	0.0162	0.0162
	2.4	2.4	2.0	1.44	0.92
6	0.0079	0.0125	0.0166	0.0186	0.0186
	2.4	2.4	2.0	1.41	0.90
8	0.0090	0.0143	0.0191	0.0213	0.0213
	2.3	2.3	2.0	1.38	0.88
10	0.0104	0.0164	0.0219	0.0245	0.0245
	2.3	2.3	1.9	1.36	0.87
12	0.0119	0.0189	0.0252	0.0281	0.0281
	2.2	2.2	1.9	1.34	0.86
14	0.0137	0.0216	0.0289	0.0323	0.0323

WATER TEMP.	pH				
DEGREES C	7.4	7.6	7.8	8.0	8.2
	2.2	2.2	1.9	1.32	0.85
16	0.0148	0.0234	0.0312	0.0349	0.0349
	2.0	2.0	1.7	1.24	0.79
18	0.0148	0.0234	0.0312	0.0349	0.0349
	1.8	1.8	1.5	1.07	0.69
20	0.0148	0.0234	0.0312	0.0349	0.0349
	1.52	1.53	1.30	0.93	0.60
22	0.0148	0.0234	0.0312	0.0349	0.0349
	1.31	1.32	1.12	0.81	0.52
24	0.0148	0.0234	0.0312	0.0349	0.0349
	1.14	1.15	0.98	0.70	0.46
26	0.0148	0.0234	0.0312	0.0349	0.0349
	0.99	1.00	0.85	0.61	0.40
28	0.0148	0.0234	0.0312	0.0349	0.0349
	0.86	0.87	0.75	0.54	0.35
30	0.0148	0.0234	0.0312	0.0349	0.0349
	0.75	0.76	0.65	0.47	0.31

WATER TEMP	pH			
DEGREES C	8.4	8.6	8.8	9.0
0	0.0123	0.0123	0.0123	0.0123
	0.61	0.39	0.25	0.163
2	0.0141	0.0141	0.0141	0.0141
	0.60	0.38	0.25	0.161
4	0.0162	0.0162	0.0162	0.0162
	0.58	0.37	0.24	0.159
6	0.0186	0.0186	0.0186	0.0186

WATER TEMP	pH			
DEGREES C	8.4	8.6	8.8	9.0
	0.57	0.37	0.24	0.158
8	0.0213	0.0213	0.0213	0.0213
	0.56	0.36	0.24	0.158
10	0.0245	0.0245	0.0245	0.0245
	0.56	0.36	0.24	0.158
12	0.0281	0.0281	0.0281	0.0281
	0.55	0.36	0.24	0.159
14	0.0323	0.0323	0.0323	0.0323
	0.55	0.36	0.24	0.162
16	0.0349	0.0349	0.0349	0.0349
	0.51	0.34	0.23	0.155
18	0.0349	0.0349	0.0349	0.0349
	0.45	0.29	0.20	0.138
20	0.0349	0.0349	0.0349	0.0349
	0.39	0.26	0.18	0.124
22	0.0349	0.0349	0.0349	0.0349
	0.34	0.23	0.16	0.112
24	0.0349	0.0349	0.0349	0.0349
	0.30	0.20	0.14	0.102
26	0.0349	0.0349	0.0349	0.0349
	0.27	0.18	0.127	0.093
28	0.0349	0.0349	0.0349	0.0349
	0.24	0.16	0.115	0.085
30	0.0349	0.0349	0.0349	0.0349
	0.21	0.15	0.105	0.079

iv. Turbidity, below any applicable mixing zone set by the Department, shall not exceed background turbidity by more than 50 NTU instantaneously or more than 25 NTU for more than ten (10) consecutive days. (8-24-94)

- d. Salmonid spawning: waters designated for salmonid spawning are to exhibit the following characteristics during the spawning period and incubation for the particular species inhabiting those waters: (7-1-93)
- i. Dissolved Oxygen. (8-24-94)
 - (1) Intergravel Dissolved Oxygen. (8-24-94)
 - (a) One (1) day minimum of not less than 5.0 mg/l. (8-24-94)
 - (b) Seven (7) day average mean of not less than 6.0 mg/l. (8-24-94)
 - (2) Water-Column Dissolved Oxygen. (8-24-94)
 - (a) One-day minimum of not less than 6.0 mg/l or ninety percent of saturation, whichever is greater. (8-24-94)
 - ii. Water temperatures of thirteen (13) degrees C or less with a maximum daily average no greater than nine (9) degrees C. (8-24-94)
 - iii. Ammonia. (8-24-94)
 - (1) One (1) hour average concentration of un-ionized ammonia is not to exceed the criteria defined at Idaho Department of Health and Welfare Rules Section 250.02.c.iii.(1). (8-24-94)
 - (2) Four (4) day average concentration of un-ionized ammonia is not to exceed the criteria defined at Idaho Department of Health and Welfare Rules Section 250.02.c.iii.(2). (8-24-94)
 - iv. Unless modified for site-specific conditions, the time periods for salmonid spawning and incubation in the following Table shall apply for the indicated species. (8-24-94)

TABLE. Time Periods for Salmonid Spawning and Incubation.

Fish Species	(Annually) Time Period
Chinook salmon (spring)	Aug 1 - Apr 1
Chinook salmon (summer)	Aug 15 - June 15
Chinook Salmon (fall)	Sept 15 - Apr 15
Sockeye Salmon	Oct 1 - June 1
Steelhead trout	Feb 1 - July 15
Redband trout	Mar 1 - July 15

Fish Species	(Annually) Time Period
Cutthroat trout	Apr 1 - Aug 1
Sunapee trout	Sept 15 - June 10
Bull trout	Sept 1 - Apr 1
Golden trout	June 15 - Aug 15
Kokanee	Aug 1 - June 1
Rainbow trout	Jan 15 - July 15
Mountain whitefish	Oct 15 - Mar 15
Brown trout	Oct 1 - Apr 1
Brook trout	Oct 1 - June 1
Lake trout	Oct 1 - Apr 1
Arctic grayling	Apr 1 - July 1

(8-24-94)

03. Water Supplies. (7-1-93)

a. Domestic: waters designated for domestic water supplies are to exhibit the following characteristics: (7-1-93)

i. All toxic substance criteria set forth in 40 CFR 131.36(b)(1), Column D1, revised as of December 22, 1992, effective February 5, 1993 (57 FR 60848, December 22, 1992). 40 CFR 131.36(b)(1) is hereby incorporated by reference in the manner provided in Subsection 250.07 provided, however, the standard for arsenic shall be .02 ug/L for Column D1 (which constitutes a recalculation to reflect an appropriate bioconcentration factor for fresh water). (3-8-95)

ii. Radioactive materials or radioactivity not to exceed concentrations specified in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 1, Chapter 8, "Rules Governing Public Drinking Water Systems." (8-24-94)

iii. Small public water supplies (Surface Water). (8-24-94)

(1) The following Table identifies waters, including their watersheds above the public water supply intake (except where noted), which are designated as small public water supplies. (8-24-94)

TABLE - DESIGNATED SMALL PUBLIC WATER SUPPLIES.

PUBLIC WATER			
County	Water Body	Supply No.#	Supply System Name
Benewah	Adams Creek	1050011	Fernwood Water District
Boise	Elk Creek	4080025	Idaho City Water Department
Boise	McBride Creek	4080047	Terrace Lakes Rec. Ranch
Bonner	Berry Creek	1090021	Colburn Water Association.
Bonner	Strong Creek	1090038	East Hope Water Department
Boundary	Meadow Creek	1110001	Bee Line Water Association
Boundary	Curley Creek	1110008	Curley Creek Water Assn.
Boundary	Molar Creek Highland Creek	1110017	Highland Flats Water Assn.
Boundary	Mission Creek	1110019	Mission Creek Water Assn.
Boundary	Caribou Creek	1110020	Moravia Water Association
Boundary	Brown Creek Cedar Creek	1110023	Paradise Valley Water Assn.
Boundary	Skin Creek	1110025	Skin Creek Water Association
Boundary	Twenty Mile Ck.	1110030	Twenty Mile Creek Water Assn.
Clearwater N.F.	Clearwater R.##	2180001	Ahsahka Water and Sewer District
Clearwater	Reeds Creek	2180029	Potlatch Corp - Headquarters
Elmore	E.F. Montezuma Creek	4200005	Atlanta Water Association
Idaho	Wall Creek	2250011	Clearwater Water Association
Idaho	Big Elk Creek	2250017	Elk City Water/Sewer Assn.
Nez Perce	Big Canyon Ck.	2350023	Peck Water System
Shoshone	Sawmill Gulch Canyon Creek	1400016	Citizens Utility Co-Burke
Shoshone	Spring Gulch Rosebud Gulch	1400032	Leisure AcresTrailer Court
Shoshone	Alder Creek East Alder Ck.	1400039	Murray Water Works

PUBLIC WATER			
County	Water Body	Supply No.#	Supply System Name
Shoshone	E.F. Silver Ck.	1400046	Silver Creek Water Association
Valley	Boulder Creek	4430059	Yellowpine Water System, Inc.

Public water supply number assigned by IDHW/DEQ.

Only the portion of the watershed below Dworshak Dam is included.
(8-24-94)

(2) For those surface waters identified in Section 250.03.a.iii.(1) turbidity as measured at the public water intake shall not be:
(8-24-94)

(a) Increased by more than 5 NTU above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, when background turbidity is 50 NTU or less.
(8-24-94)

(b) Increased by more than ten percent (10%) above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, not to exceed 25 NTU, when background turbidity is greater than 50 NTU.
(8-24-94)

b. Agricultural: water quality criteria for agricultural water supplies will generally be satisfied by the water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, "Water Quality Criteria 1972" (Blue Book), Section V, Agricultural Uses of Water, EPA, March, 1973 will be used for determining criteria. This document is available for review at the Idaho Department of Health and Welfare, Division of Environmental Quality, or can be obtained from EPA or the U.S. Government Printing Office.
(8-24-94)

c. Industrial: water quality criteria for industrial water supplies will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 250 or 275 through 298.
(7-1-93)

04. Wildlife Habitats. Water quality criteria for wildlife habitats will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 250 or 275 through 298.
(7-1-93)

05. Aesthetics. Water quality criteria for aesthetics will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 250 or 275 through 298.
(7-1-93)

06. Development of Toxic Substance Criteria. (8-24-94)

- a. Aquatic Life Criteria. (8-24-94)
 - i. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (8-24-94)
 - (1) Site-specific criteria developed pursuant to Section 275.; (8-24-94)
 - (2) Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (8-24-94)
 - (3) The most recent recommended criteria defined in EPA's Aquatic Toxicity Information Retrieval (ACQUIRE) database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (8-24-94)
 - (4) Scientific studies, including but not limited to, instream benthic assessment or rapid bioassessment. (8-24-94)
 - b. Human Health Criteria. (8-24-94)
 - i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department from the most recent recommended criteria defined in EPA's Integrated Risk Information System (IRIS). When using EPA recommended criteria to derive water quality criteria to protect human health a fish consumption rate of 6.5 grams/day, a water ingestion rate of 2 liters/day and a cancer risk level of 10^{-6} shall be utilized. (8-24-94)
07. Numeric Criteria for Toxic Substances. (8-24-94)
- a. 40 CFR 131.36, revised as of December 22, 1992, effective February 5, 1993 (57 FR 60848, December 22, 1992, the National Toxics Rule), and all subparts and notes are hereby incorporated by reference, except as noted in or amended by Subsections 250.07.a.i., ii., iii., iv., and v. (8-24-94)
 - i. The reference to "paragraph (d) of" in 40 CFR 131.36(c)(2)(iii) shall be deleted. (8-24-94)
 - ii. The second sentence of 40 CFR 131.36(b)(1), footnote C shall be deleted. (8-24-94)
 - iii. 40 CFR 131.36(c)(1) shall be deleted and replaced with the following: "The criteria in paragraph (b) of this section apply to surface waters of the state as provided in Idaho IDAPA 16.01.02. "Water Quality Standards and Wastewater Treatment Requirements", Section 250. (8-24-94)
 - iv. The first sentence of 40 CFR 131.36(c)(4)(iii) shall be deleted and replaced with the following: "The criteria for metals (compounds #1-9 and 11-13 in

paragraph (b) of this section) are expressed as dissolved concentrations with the following ~~correction~~ conversion factors: Arsenic(III) ~~95~~ 1.000; Cadmium ~~85~~ 0.944 for CMC and 0.909 for CCC; Chromium(III) ~~85~~ 0.316 for CMC and 0.860 for CCC; Chromium(VI) ~~95~~ 0.982 for CMC and 0.962 for CCC; Copper ~~85~~ 0.960; Lead ~~50~~ for CMC, ~~.25~~ for CCC 0.791; Mercury .85 for CMC only; Nickel ~~85~~ 0.998 for CMC and 0.997 for CCC; Silver .85 for CMC only; Zinc ~~85~~ 0.978 for CMC and 0.986 for CCC. Compound #10 (Selenium) is expressed as total recoverable concentrations. Compound #14 (Cyanide) is expressed as Weak Acid Dissociable (WAD) concentrations." ~~(8-24-94)~~(2-16-96)T

v. 40 CFR 131.36(d) shall not be incorporated by reference. (8-24-94)

b. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in subsection 250.07.a. should be governed by the following standards, that are hereby incorporated by reference, in addition to the provisions of 40 CFR 131.36: provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 250.07.a.iv of this rule. ~~(8-24-94)~~(2-16-96)T

i. "Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria," EPA, October 1993; (8-24-94)

ii. "Guidance Document on Dynamic Modeling and Translators," EPA, August 1993; (8-24-94)

iii. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993. (8-24-94)

iv. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994. (8-24-94)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.05 - RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 16-0105-9502

NOTICE OF PENDING AND TEMPORARY RULE

EFFECTIVE DATE: The temporary rule is effective April 15, 1996. The pending rule becomes final and effective on July 1, 1997 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending/temporary rule. The action is authorized by Sections 39-4401 et seq. and 39-5801 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending/temporary rule and a statement of any change between the text of the proposed rule and the text of the pending/temporary rule with an explanation of the reasons for any change.

The Rules and Standards for Hazardous Waste are updated annually to maintain consistency with the Environmental Protection Agency's (EPA) regulations as directed by the Idaho Hazardous Waste Management Act. This rulemaking is the annual update to make Idaho rules consistent with revisions to federal hazardous waste regulations promulgated up to July 1, 1995. This rulemaking also amends the Rules and Standards for Hazardous Waste to clarify which federal terms should be replaced with state terms.

The initial proposal incorporated by reference the federal hazardous waste regulation that imposed additional controls for organic emissions from tanks and containers (40 CFR 264 Subpart CC and 40 CFR 265 Subpart CC). EPA has postponed the effective date of this regulation and will be making further changes to the regulation. Upon recommendation from EPA, the Department of Health and Welfare has withdrawn this regulation from the proposal before adopting the rule as pending and temporary. Idaho can maintain primacy and postpone adoption of this regulation until next year once EPA has finalized its regulations.

IDAPA 16.01.05 Sections 003, 004, 007, 010, 011, 013, 015, 016, 355, and 997 have been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 95-11, November 1, 1995, pp. 25 through 31 and, therefore, have not been republished with this Notice.

IDAPA 16.01.05 Sections 002, 006, 008, 009, and 012 have been modified in accordance with Idaho Code Section 67-5227 and, therefore, have been republished with this Notice.

IDAPA 16.01.05.005 has been amended to include the revisions adopted under Docket No. 16-0105-9501 and, therefore, has been republished with this Notice.

The Idaho Department of Health and Welfare, Division of Environmental Quality's rulemaking record is maintained at the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706. The Rulemaking and Public Comment Summary, which contains a

complete consideration of the issues raised by the public, is included in the rulemaking record.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule complies with deadlines in amendments to federal programs.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact John Brueck at (208)373-0502.

DATED this 3rd day of April, 1996.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

**There are substantive changes
from the proposed rule text**

**Only those sections that have changed from the
original proposed text are printed in this
Bulletin following this notice
They are Sections 002, 005, 006, 008, 009, and 012**

**The complete original text was published in the
Idaho Administrative Bulletin, Volume 95-11, November 1, 1995
Pages 25 through 31
Sections 003, 004, 007, 010, 011, 013, 015, 016, 355, and 997
can be reviewed in the November Bulletin**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1997 Idaho State Legislature
for final adoption**

TEXT OF DOCKET NO. 16-0105-9502

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.
Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-266, 268, 270, 273, and

279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 1994~~5~~, including any notes and appendices therein, unless expressly provided otherwise in these rules. ~~(4-26-95)~~(4-15-96)T

01. Exceptions. Nothing in 40 CFR Parts 260 - 266, 268, 270, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (2-11-94)

02. Availability of Referenced Material. Copies of the federal regulations adopted by reference throughout these rules are available in the following locations: (6-10-88)

a. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206)553-4270; (4-26-95)

b. Administrative Procedure Section, Idaho Department of Health and Welfare Central Office, 450 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0036, (208)334-5552; and (4-26-95)

c. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208)334-3316. (4-26-95)

(BREAK IN CONTINUITY OF SECTIONS)

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~. ~~(4-26-95)~~(4-15-96)T

01. Excluded Wastes. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by Envirosafe Services of Idaho, Inc. (ESII) at ESII's facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (11-17-95)T

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Sections 005.01.b. and 005.01.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (11-17-95)T

b. Initial Verification Testing. (11-17-95)T

i. For purposes of Section 005.01.b., "new source" shall mean any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Division of

Environmental Quality Hazardous Waste No. KO61, whose waste has not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Section 005.01.d. (11-17-95)T

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (11-17-95)T

(1) The waste profile information; and (11-17-95)T

(2) The name and address of the generator. (11-17-95)T

iii. The first four (4) consecutive batches treated must be sampled in accordance with Section 005.01.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Section 005.01.d. (11-17-95)T

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Section 005.01.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Section 005.01.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (11-17-95)T

v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (11-17-95)T

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Section 005.01.d.; and (11-17-95)T

(2) The operational and analytical test data is submitted to the Department pursuant to Section 005.01.b.iv. (11-17-95)T

vi. For purposes of Sections 005.01.b. and 005.01.c., "batch" shall mean the CSEAFD which results from a single treatment episode in a full scale mixing vessel. (11-17-95)T

c. Subsequent Verification Testing. (11-17-95)T

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Section 005.01.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (11-17-95)T

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Section 005.01.d. (11-17-95)T

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (11-17-95)T

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Section 005.01.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Section 005.01.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (11-17-95)T

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Section 005.01.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (11-17-95)T

(1) Retested, and retreated if necessary, until it meets the levels set forth in Section 005.01.d.; or (11-17-95)T

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (11-17-95)T

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Section 005.01.d. (11-17-95)T

d. Delisting levels. (11-17-95)T

i. All leachable concentrations for these metals must not exceed the following levels (mg/l): antimony--0.06; arsenic--0.50; barium--7.6; beryllium--0.010; cadmium--0.050; chromium--0.33; lead--0.15; mercury--0.009; nickel--1; selenium--0.16; silver--0.30; thallium--0.020; vanadium--2; and zinc--70. (11-17-95)T

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (11-17-95)T

e. Modification of Treatment Process. (11-17-95)T

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (11-17-95)T

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (11-17-95)T

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the

process was modified. (11-17-95)T

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Division of Environmental Quality, Permits and Enforcement, 1410 N. Hilton, Boise, Idaho 83706. (11-17-95)T

f. Records and Data Retention and Submittal. (11-17-95)T

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (11-17-95)T

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (11-17-95)T

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (11-17-95)T

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (11-17-95)T

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation By Reference. 40 CFR Part 262 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994, except reference to 40 CFR 265 Subpart CC. For purposes of 40 CFR 262.53, 262.55, 262.56, and 262.57(b), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director, except that advance notification, annual reports, and exception reports in accordance with 40 CFR Parts 262.53, 262.55 and 262.56 shall be filed with the Regional Administrator and a copy of such reports shall be filed with the Director. For purposes of 40 CFR 262.51 and 262.54(g)(1), EPA shall be defined as the U.S. Environmental

Protection Agency. All references to EPA in 40 CFR Parts 262.51 and 262.54(g)(1) shall be defined as EPA. All references to the Regional Administrator in 40 CFR Parts 262.57(b) shall be defined as the Regional Administrator. (~~4-26-95~~)(4-15-96)T

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR ~~Parts~~ 265.56(d)(2) and 262.34(d)(5)(iv)(c), (see 40 CFR 262.34(a)(4)), the emergency coordinator must also immediately notify the State Communications Center by telephone, 1-800-632-8000, to file an identical report.

(~~3-1-93~~)(4-15-96)T

(BREAK IN CONTINUITY OF SECTIONS)

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 264 and all Subparts (excluding 40 CFR ~~Parts~~ 264.149 ~~and~~, 264.150, 264.301(l), and Subpart CC) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~. For purposes of 40 CFR section 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. All references to the ~~Regional Administrator in 40 CFR Part 264.12(a)~~ shall be defined as the Regional Administrator. (~~4-26-95~~)(4-15-96)T

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 265, and all Subparts (excluding Subpart R, Subpart CC, ~~and~~ 40 CFR ~~Parts~~ 265.149 and 265.150) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~.

(~~4-26-95~~)(4-15-96)T

(BREAK IN CONTINUITY OF SECTIONS)

012. HAZARDOUS WASTE PERMIT PROGRAM.

40 CFR Part 270 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 1994~~5~~, except reference to 40 CFR 264 Subpart CC and 40 CFR 265 Subpart CC. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(3), 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively.

(~~4-26-95~~)(4-15-96)T

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.08 - IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 16-0108-9502

NOTICE OF PENDING AND TEMPORARY RULE

EFFECTIVE DATE: The temporary rule is effective March 1, 1996. The pending rule becomes final and effective on July 1, 1997 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending/temporary rule. The action is authorized by Sections 39-101 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending/temporary rule and a statement of any change between the text of the proposed rule and the text of the pending/temporary rule with an explanation of the reasons for any change.

The U.S. Environmental Protection Agency (EPA) has promulgated amendments to the federal Safe Drinking Water Act regulations which require that Idaho change its drinking water rules in order to maintain primacy of the drinking water program. On June 29, 1995, EPA issued a final regulation regarding maximum contaminant levels (MCLs) for inorganic contaminants. This final EPA regulation requires the Department of Health and Welfare, Division of Environmental Quality (DEQ) to adopt 40 C.F.R. Part 141.

This rule also adds a section stating that, if systems fail to pay the annual drinking water fee assessment, DEQ may suspend technical services, review of engineering reports and plans and specifications for design and construction, renewal of monitoring waivers, granting of new monitoring waivers, and may disapprove the public drinking water system. In addition, the rule deletes a late payment penalty provision for annual fee assessments.

The rule also adds a section requiring each system, which provides filtration treatment, to submit engineering evaluations or other documentation, as required, to demonstrate ongoing compliance with the Idaho Rules for Public Drinking Water Systems.

The rule was adopted as initially proposed in the Idaho Administrative Bulletin, Volume 95-11, November 1, 1995, pages 32 through 60.

The Idaho Department of Health and Welfare, Division of Environmental Quality's rulemaking record is maintained at the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706. The Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public, is included in the rulemaking record.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule complies with deadlines in amendments to federal programs and is reasonably

necessary to protect public health.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact Bill Jarocki at (208)373-0502.

DATED this 3rd day of April, 1996.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

IDAPA 16
TITLE 01
Chapter 08

RULES GOVERNING PUBLIC DRINKING WATER SYSTEMS

There are no substantive changes
from the proposed rule text

The original text was published in the Idaho
Administrative Bulletin, Volume 95-11, November 1, 1995
Pages 32 through 60

This rule has been adopted as Final by the Agency
and is now pending review by the
1997 Idaho State Legislature
for final adoption

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE
16.01.13 - RULES FOR ORE PROCESSING BY CYANIDATION
DOCKET NO. 16-0113-9501

NOTICE OF PENDING AND TEMPORARY RULE

EFFECTIVE DATE: The temporary rule is effective March 1, 1996. The pending rule becomes final and effective on July 1, 1997 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 Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending/temporary rule. The action is authorized by Section 39-101 et seq., Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending/temporary rule and a statement of any change between the text of the proposed rule and the text of the pending/temporary rule with an explanation of the reasons for any change.

The rule clarifies the Department of Health and Welfare, Division of Environmental Quality's (DEQ) flexibility to require lesser areas of criteria to be prescribed in a permit application for a small mineral processing facility or a pilot facility. This flexibility allows DEQ to determine, on a case-by-case basis, if criteria currently required on selected items for a cyanide permit may be exempted in whole or in part if by doing so does not result in negative impacts to the environment, the waters of the state or the public health. Definitions describing a small mineral processing facility and a pilot facility in terms of volume processed annually and duration of operation has been added to the definition section of the cyanide rules.

Proposed language was also added to the existing Rules for Ore Processing by Cyanidation describing how the amount of financial assurance will be calculated for a facility meeting the definition of a small mineral processing facility or a pilot facility. Several comments regarding proposed financial assurance language were received during the public comment period. The comments received unanimously stated that the financial assurance was too low as proposed and suggested that the amount either be left as stated in the existing rules or raised above the minimum \$5000 amount proposed. As a result of the comments, all proposed language describing a separate calculation mechanism for determining financial amounts for small mineral processing facilities and pilot facilities has been removed and the existing cyanide rule language describing amounts of financial assurance remains unchanged. This means that the financial assurance will be calculated the same for every cyanide mining operation and will have a minimum dollar amount of \$25,000, regardless of size or duration of the mining operation.

The primary purpose for adopting the rule is to clarify DEQ's ability to require only that information which is appropriate considering the size and duration of the cyanide mining operation and the potential impacts to public health and the environment.

IDAPA 16.01.13 Sections 002, 300, and 450 have been adopted as initially proposed in the Idaho Administrative Bulletin, Volume 95-10, October 4, 1995, pp. 85 through 101, and,

therefore, have not been republished with this Notice.

IDAPA 16.01.13 Sections 100 and 650 have been modified in accordance with Idaho Code Section 67-5227 and, therefore, have been republished with this Notice.

The Idaho Department of Health and Welfare, Division of Environmental Quality's rulemaking record is maintained at the Division of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706. The Rulemaking and Public Comment Summary, which contains a complete consideration of the issues raised by the public, is included in the rulemaking record.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in that the rule confers a benefit to operators of small or pilot plant cyanide facilities. The operators of these facilities benefit in that the rule change clarifies DEQ's ability to require only that information in the permit which is appropriate considering the size and duration of the operation and the potential impacts to public health and the environment. This may allow an operator to submit less information.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rule, contact Richard Rogers at (208)373-0502.

DATED this 3rd day of April, 1996.

Paula Junae Saul
Environmental Quality Section
Attorney General's Office
1410 N. Hilton
Boise, Idaho 83706-1255

**There are substantive changes
from the proposed rule text**

**Only those sections that have changed from the
original proposed text are printed in this
Bulletin following this notice
They are Sections 100 and 650**

**The complete original text was published in the
Idaho Administrative Bulletin, Volume 95-10, October 4, 1995
Pages 85 through 101
Sections 002, 300, and 450
can be reviewed in the November Bulletin**

**This rule has been adopted as Final by the Agency
and is now pending review by the
1997 Idaho State Legislature
for final adoption**

TEXT OF DOCKET 16-0113-9501

100. PERMIT AND PERMIT APPLICATION.

01. Permit Required. No person shall construct a new facility prior to obtaining a permit from the Director. No person shall materially expand or materially modify a new or existing facility prior to obtaining a permit for such expansion or modification. (1-1-88)

02. Permit Application. The owner or operator of a proposed facility or the owner's or operator's authorized representative shall make application to the Director in writing and in a manner or form prescribed herein. (1-1-88)

03. Contents of Application. A permit application will be used to determine if the location, construction, operation, and closure of a proposed facility will be in conformance with these and other applicable regulations including, but not limited to Idaho Department of Health and Welfare Rules ~~and Regulations~~, IDAPA 16, Title 01, Chapter 02, "Water Quality Standards and Wastewater Treatment Requirements," and Idaho Department of Health and Welfare Rules ~~and Regulations~~, IDAPA 16, Title 01, Chapter 08, "Idaho ~~Rules-Regulations~~ for Public Drinking Water Systems." Information required shall include the following, in sufficient detail to allow the Director to make necessary application review decisions concerning design concept, environmental protection and public health: ~~(1-1-88)(3-1-96)T~~

a. Name, location, and mailing address of the facility. (1-1-88)

b. Name, mailing address, and phone number of the applicant, and a registered agent. (1-1-88)

c. Land ownership status of the facility (federal, state, private or public). (1-1-88)

d. The legal structure (corporation, partnership, etc.) and residence of the applicant. (1-1-88)

e. A surface and subsurface description, except as provided in Subsection 100.04 of these rules, of the proposed facility site to characterize the local hydrogeologic regime. ~~(1-1-88)(3-1-96)T~~

f. A topographic site map and or aerial photos, except as provided in Subsection 100.04 of these rules, extending at least one (1) mile beyond the outer limits of the facility site, identifying and showing the location and extent of the following features: ~~(1-1-88)(3-1-96)T~~

i. All wells, springs, wetlands, surface waters and irrigation ditches within

one (1) mile of the site boundary; (1-1-88)

ii. All process water supply source(s); (1-1-88)

iii. All public and private drinking water supply source(s) within at least one (1) mile of the site boundary; (1-1-88)

iv. All USGS identified floodplain areas (as shown on USGS sectional Quadrangle maps); (1-1-88)

v. All service roads and public roads; (1-1-88)

vi. All buildings and structures within a half (1/2) mile of the site boundary; (1-1-88)

vii. All special resource waters within one (1) mile of the site boundary. (1-1-88)

g. Topographic maps and/or aerial photos and an engineering report with drawings, except as provided in Subsection 100.04 of these rules, showing locations and design of those portions of the facility, intended to contain, treat, or dispose process water or process-contaminated water containing cyanide. This information shall be of sufficient detail to allow the Director to make necessary factual determinations concerning design competence and environmental protection and include: a drawing which shows surface gradients and flow of process solutions, predicted flow of runoff and run-on; design criteria and process schematic; leach pad and pond cross sections; typical details of liner systems for pads, ponds and process-related impoundments; treatment process schematics; and leak detection/monitoring system details. The facility design shall be certified by a registered professional engineer. Any material modifications to the engineering drawings shall require prior approval by the Department and submittal of as built drawings by the applicant which are certified by a registered professional engineer. These regulations recognize the need for practicable design flexibility in order to meet site specific operating and environmental protection criteria. Construction and material specifications that meet design criteria shall be submitted with the permit application. These shall address major construction requirements related to materials of construction identified in the engineering report, inspection and testing requirements (including liners), and necessary manufacturer certifications. Construction specifications shall include a quality assurance procedure for liner installations and a procedure for leak testing of impoundments. ~~(1-1-88)(3-1-96)T~~

h. An operating plan, except as provided in Subsection 100.04 of these rules, that includes: ~~(1-1-88)(3-1-96)T~~

i. The general ore processing overview; (1-1-88)

ii. The process containment, treatment and disposal methods to be used; (1-1-88)

iii. A water management strategy that describes the process water balance and the methods to manage all process water, process-contaminated water, and runoff or run-on water, emergency releases, and excess water due to flood, rain, snowmelt, or other

similar events. The strategy shall include the basis for impoundment volumes and all estimations. Nothing in these regulations shall be construed to deny the owner or operator of a facility the opportunity to apply for and receive a federal discharge permit or an Idaho Department of Water Resources injection well permit as part of the water management strategy. In addition the strategy may include a request for approval of a land application proposal or a proposal for economic reuse. (1-1-88)

iv. A monitoring strategy that describes the existing water quality (baseline), proposed monitoring of surface and ground waters that may receive drainage or seepage from the operation (operational), and proposed monitoring for detection and location of leaks or discharges from the operation. (1-1-88)

v. A discharge response strategy that describes procedures and methods to be implemented for the abatement, and clean up of any pollutant that may escape proper containment at the facility. (1-1-88)

vi. A seasonal closure strategy, if applicable, that describes the procedures, methods, and schedule to be implemented for the treatment and disposal of process water, the control of drainage from the facility during the period of closure, the control of drainage from the surrounding area, and the secure storage of chemicals. (1-1-88)

i. A permanent closure plan that describes the procedures, methods, and schedule to be implemented at the facility for the treatment and disposal of process water and process-contaminated water and the control and monitoring of discharges and potential discharges for a reasonable period of time based on site-specific conditions. (1-1-88)

j. The application shall be accompanied by a fee of one hundred dollars (\$100). (1-1-88)

04. Application for A Small Mineral Processing Facility and Pilot Facility. The owner or operator of a proposed facility or the owner's or operator's authorized representative shall make application to the Director in writing of the intent to operate a small mineral processing facility or a pilot facility. The application shall include an explanation as to why the proposed facility qualifies as a small mineral processing facility or a pilot facility. The application must further meet the requirements of Subsection 100.03 in the following manner: (3-1-96)T

a. The application must contain plans and specifications certified by a registered professional engineer in accordance with Section 39-118A, Idaho Code; and (3-1-96)T

b. The application must contain the information and fee required by Subsections 100.03.a., b., c., d., i., and j.; and (3-1-96)T

c. The Director may provide an exemption to any other requirement of Subsection 100.03, not set forth in Subsections 100.04.a. and b., if by so doing, the Director has sufficient information to determine potential impacts to the environment, public health or current or future beneficial uses of the waters of the state. (3-1-96)T

(BREAK IN CONTINUITY OF SECTIONS)

650. FINANCIAL ASSURANCE.

01. Financial Assurance Required. Prior to commencing cyanidation operations an applicant shall establish financial assurance for permanent closure of the facility meeting the requirements of these regulations. (1-1-88)

02. Amount. The amount of financial assurance shall be determined by multiplying five cents (\$.05) by the number of tons of untreated processed ore and the projected number of tons to be leached with cyanide within the next calendar year, unless the permittee requests an amount based on a projection for more than one (1) year; however, the minimum amount of financial assurance shall be the sum of twenty-five thousand dollars (\$25,000) and the maximum amount shall be the sum of one hundred thousand dollars (\$100,000). (1-1-88)

a. The amount of financial assurance shall be reviewed on an annual basis. The permittee shall submit in writing on or before December 1 each year the number of tons of untreated processed ore and the projected number of tons to be leached with cyanide for the succeeding calendar year. (1-1-88)

b. In the event there is a material change in the tons of ore leached with cyanide over the tons of ore projected under Subsection 650.02.a., the permittee shall submit written notification to the Department of the change and an adjustment will be made accordingly. (12-31-91)

03. Form. An applicant may comply with the financial assurance requirements of these regulations through one or more of the following options: (1-1-88)

a. A corporate surety bond evidenced by an indemnity agreement, executed by or for the applicant and a corporate surety, and payable to the Department. Corporate surety bonds shall be subject to the following conditions: (1-1-88)

i. The Department shall obtain possession of the bond. (1-1-88)

ii. The bond shall be conditioned upon the applicant's adequate performance of permanent closure under an approved closure plan. (1-1-88)

iii. The bond shall be on a form supplied by the Department. (1-1-88)

iv. The corporate surety shall be licensed to do business in the United States. (1-1-88)

b. A collateral bond evidenced by an indemnity agreement, executed by or for the applicant and payable to the Department, pledging cash deposits, negotiable bonds of the United States, this State or political subdivisions of this State, or negotiable certificates of deposit of any bank doing business in the United States. Collateral bonds shall be subject to the following conditions: (1-1-88)

i. The Department shall obtain possession, and upon receipt of such collateral bonds, deposit them with the State Treasurer to hold in trust for the purpose of bonding permanent closure. (1-1-88)

ii. The Department shall value collateral at current market value, not face value. (1-1-88)

iii. Certificates of deposit shall be issued in the name of "principal or Idaho Department of Health and Welfare," in writing and upon the records of the bank issuing such certificates. Interest may be allowed to accrue and received upon release of the bond, or be paid to the principal no more than semiannually. (1-1-88)

iv. Banks issuing certificates of deposit shall waive all rights of set-off, or liens which it has or might have against such certificates. (1-1-88)

v. All certificates of deposit shall be automatically renewable. (1-1-88)

vi. All certificates of deposit shall be of sufficient amount to ensure that the Department may liquidate such certificates, upon forfeiture, for the amount of the required bonding, including penalty for early withdrawal. (1-1-88)

c. A corporate surety or collateral bond payable to another state agency and the Department, or the federal government, and meeting the applicable bonding requirements of these regulations. (1-1-88)

d. One or more insurance policies issued under the following conditions: (1-1-88)

i. The applicant shall submit a certificate of insurance to the Department. (1-1-88)

ii. The policy shall be issued by a company licensed to do business in the United States. (1-1-88)

iii. The policy shall guarantee the amount determined under Subsection 650.02. to the Department for the performance of permanent closure if the applicant fails to perform permanent closure under an approved plan. (12-31-91)

iv. Termination, cancellation or nonrenewal of the policy may occur only if the Department receives ninety (90) days notice from the insurance company, and the Department consents or the policy premium is not paid by the permittee. Nonpayment of the premium constitutes a violation of the provisions of this section by the permittee. The Department shall consent to termination, cancellation or nonrenewal if the permittee substitutes alternative financial surety under this section, or completes permanent closure guaranteed by the policy under an approved plan. (1-1-88)

e. A closure trust fund which conforms to the following conditions: (1-1-88)

i. The applicant shall submit a certificate of trustees acknowledgment and

a signed duplicate trust agreement to the Department. (1-1-88)

ii. The trust agreement shall be substantially in the form appended to these regulations as Appendix A, and shall guarantee payments by the trustee at the direction of the Department to implement an approved permanent closure plan if the permittee fails to adequately perform permanent closure under such a plan. (1-1-88)

iii. The trustee shall have authority to act as such and be regulated by a state or federal agency. (1-1-88)

iv. The applicant shall deposit cash in the full amount determined under Subsection 650.02. prior to commencing cyanidation operations. (12-31-91)

v. The trust agreement shall terminate if the permittee substitutes alternative financial surety under these regulations, or the permittee completes permanent closure guaranteed by the trust fund under an approved plan. (1-1-88)

04. Cancellation and Replacement of Bonds. (1-1-88)

a. Any surety cancelling a bond shall give the Department and the bonded principal at least ninety (90) days notice prior to cancellation of an agreement. The Department shall not release a surety from liability under existing bonds until the permittee has submitted to the Department an acceptable replacement bond or other form of financial assurance under these regulations. (1-1-88)

b. If a surety cancels a bond or fails to maintain a valid license to do business in the United States, the permittee shall, within forty-five (45) days of notice from the Department, substitute a sufficient surety. A replacement bond or other financial assurance under these regulations shall cover any liability accrued against the bonded principal at the facility in addition to the amount determined under Subsection 650.02. If the permittee fails to secure a replacement bond or other alternative financial assurance under these regulations, the permittee shall cease operations at the facility covered by the bond until sufficient financial assurance is filed with the Department. (12-31-91)

05. Release of Financial Assurance. Financial assurance, or a portion thereof, required under these regulations may be released as follows: (1-1-88)

a. If at any time the value of a bond, insurance or trust is greater than the total amount of financial assurance required under Subsection 650.02., the permittee may submit a written request to the Department for release of the amount in excess of the amount required under Subsection 650.02. (12-31-91)

b. If the permittee substitutes alternative financial assurance under these regulations for all or part of a bond, insurance or trust, the permittee may submit a written request to the Department for release of the amount in excess of the financial assurance required under Subsection 650.02. (1-1-88)

c. Upon completion of permanent closure in accordance with an approved plan, the permittee may request release from financial assurance by the Department. If the Department determines that permanent closure is in accordance with an approved plan

financial assurance shall be released. If the Department determines that a portion of permanent closure has been satisfactorily completed the Department may proportionately reduce the amount of financial assurance required and release the balance. (1-1-88)

d. Within thirty (30) days after receiving a request from a permittee for release of a bond, insurance or trust, or any portion thereof, the Department shall either order release or provide the permittee with a detailed written statement of reasons why financial assurance will not be released. (1-1-88)

06. Insufficiency. In the event the amount of financial surety is insufficient to implement an approved permanent closure plan, the Department may commence legal action against the permittee to recover the amount necessary to implement permanent closure under an approved plan and these regulations. (1-1-88)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.22. - RULES GOVERNING RESIDENTIAL CARE FACILITIES FOR THE ELDERLY IN IDAHO

DOCKET NO. 16-0322-9601

NOTICE OF CORRECTION TO RULES

ACTION: The action, under Docket No. 16-0322-9601, involves the correction to the rules governing Residential Care Facilities for the Elderly in Idaho, IDAPA 16, Title 03, Chapter 22, Rules of the Department of Health and Welfare. It corrects Docket No. 16-0322-9401.

AUTHORITY: In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that the Office of the Administrative Rules Coordinator is correcting a rule. The action is authorized pursuant to Section(s) 67-5228, Idaho Code.

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

Section 16.03.22.302 was inadvertently omitted from the final rule which was published in the Idaho Administrative Code, October 1994, Volume 4. This section was originally published as a proposed rule under Docket No. 16-0322-9401 in the March 2, 1994, Idaho Administrative Bulletin, Volume 94-3, on pages 101 through 205 and as a final rule in the August 3, 1994, Idaho Administrative Bulletin, Volume 94-8 on pages 165 through 167. This section is being re-published in this docket.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this correction, contact Dennis Stevenson at the Office of the Administrative Rules Coordinator at (208) 334-3577.

DATED this 28th day of February, 1996.

D. Korey Lowder
Administrative Rules Coordinator
700 W. State Street, 4th Floor
Boise, Idaho 83720
(208) 334-3577

TEXT OF DOCKET NO. 16-0322-9601

302. INCIDENTS AND COMPLAINTS.

01. Facility Response To Incidents And Complaints. Each residential care facility for the elderly shall develop and implement a written incident and complaint policy and procedure which shall include, but not be limited to, the following: (7-1-94)

a. A method of assuring that the owner, licensee or person designated by the owner or licensee is notified of all incidents or complaints; (7-1-94)

b. That the owner, licensee or person designated by the owner or licensee has personally investigated and prepared a written report of finding for each incident or complaint; (7-1-94)

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; (7-1-94)

d. In the case of an anonymous complaint, the administrator/operator shall document the action taken or a reason why no action needs to be taken. (7-1-94)

02. Owner 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, licensee or person designated by the owner or licensee, each facility shall establish a regular time when the owner licensee or person designated by the owner or licensee shall be present to personally respond to such incidents or complaints. (7-1-94)

03. Log Of Complaints. Each facility for the elderly 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 annual review during the survey. (7-1-94)

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