

# IDAHO ADMINISTRATIVE BULLETIN

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July 2, 1997

Volume 97-7

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OFFICE OF THE ADMINISTRATIVE RULES COORDINATOR  
IDAHO DEPARTMENT OF ADMINISTRATION

NOTICE OF LEGISLATIVE ACTION

RELATING TO THE DEPARTMENT OF LABOR AND THE DIVISION OF BUILDING SAFETY

AND THE ADMINISTRATION OF THE EMPLOYMENT SECURITY

ACT BY THE DEPARTMENT OF LABOR

**AUTHORITY:** In compliance with Sections 67-5203, 67-5220, and 67-5224, Idaho Code, notice is hereby given by the Office of the Administrative Rules Coordinator that the Fifty-third Legislature in the Second Regular Session - 1996, passed Senate Bill 1512 as amended in the House, relating to the Department of Labor and the Division of Building Safety.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of the notice and the legislative action:

Senate Bill 1512 establishes the Department of Labor and provides that the Employment Security Law will be administered by the Director of the Department of Labor, amending Section 72-1333, Idaho Code. It further provides the Director with rule-making authority and provides that the Director shall have all the powers imposed upon or granted to the Director of the Department of Employment or the Director of the Department of Building and Industrial Services, other than those granted to the Administrator of the Division of Building Safety. The Bill also amends Section 67-2601, Idaho Code to establish the Division of Building Safety in the Department of Self-governing Agencies and provides the duties and responsibilities of the Division. The bill further adds to and repeals existing law in establishing the Department of Labor and the Division of Building Safety in the place of the Department of Labor and Industrial Services and the Department of Employment.

This notice, in the accordance with Section 67-5228, Idaho Code, complies with the Legislative intent of Senate Bill 1512 by changing the names of the effected agencies and references within the rules reflecting those name changes. No substantive changes have been made to any of the rules of these two agencies. IDAPA 07, Chapters 07.05.01 through 07.06.04 were transferred from the former Department of Building and Industrial Services to IDAPA 09, the Department of Labor, formerly the Department of Employment, and were renumbered as IDAPA 09.05.01 through 09.06.04. These changes will be incorporated into and published in the July 1, 1997 edition of the Idaho Administrative Code.

**ASSISTANCE ON QUESTIONS:** For assistance on questions concerning this notice, contact Dennis R. Stevenson at (208) 334-3558.

DATED this 30 day of May 1997.

Rick Thompson  
Administrative Rules Coordinator  
Department of Administration  
P.O. Box 83720  
Boise, ID 83720-0011  
PHONE: (208) 334-3577      FAX: (208) 334-2398

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**  
**02.01.04 - RULES GOVERNING ENVIRONMENTAL AUDIT PROTECTION**

**DOCKET NO. 02-0104-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to section 9-810, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. This rule amends the definition of "person" in IDAPA 02.01.04.004.12 and amends the section pertaining to "Prohibition Against Compelled Disclosure" in IDAPA 02.01.04.010 in compliance with the amendments to the Environmental Audit Protection Act, enacted by HB 862 in the 1996 Legislative Session. This rule is promulgated in compliance with deadlines in amendments to governing law.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 97-1, pages 7 through 9.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Robert Hays, Bureau Chief, at (208) 332-8610.

DATED this 21st day of May, 1997.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
P.O. 790, Boise, Idaho 83701-0790  
(208) 332-8500/(208) 334-4623 FAX

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**IDAPA 02**  
**TITLE 01**  
**Chapter 04**

**RULES GOVERNING ENVIRONMENTAL AUDIT PROTECTION**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-1, January 1, 1997,  
pages 7 through 9.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**

**02.06.16 - RULES GOVERNING RHIZOMANIA DISEASE OF SUGAR BEETS, BETA VULGARIS**

**DOCKET NO. 02-0616-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to title 22, Chapters 19 and 20, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. This rule is being repealed in its entirety. The rhizomania disease of sugar beets is now known to exist in most of the counties producing sugar beets. The Idaho Rhizomania Committee and the Idaho Seed Council unanimously approved a motion to repeal IDAPA 02.06.16.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 97-1, page 10.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega or Michael E. Cooper at (208) 332-8620.

DATED this 21st day of March, 1997.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
P.O. Box 790, Boise, Idaho 83701-0790  
(208) 332-8500/(208) 334-4623 Fax

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**IDAPA 02  
TITLE 06  
Chapter 16**

**RULES GOVERNING RHIZOMANIA DISEASE OF SUGAR BEETS, BETA VULGARIS**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-1, January 1, 1997,  
page 10.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE**  
**02.06.18 - RULES GOVERNING MINT ROOTSTOCK AND CLONE PRODUCTION**

**DOCKET NO. 02-0618-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-702, 22-1905, and 22-2001, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. This rule redefines "infested area" as "commercial production area," reclassifies regulated pests, establishes tolerances and remedies when regulated pests are detected, removes the mandatory field inspections for mint rootstock in the "infested area" of Idaho, and defines "field." The rule requires the Department to mark sampling sites in each field, notify the growers of confirmed pest and disease infestations, and provide the Idaho Mint Commission with copies of transfer permits issued to mint growers. The rule eliminates the fall and winter digging inspections. The rule also sets production standards for greenhouse production of mint clones. The Mint Growers Association and the Idaho Mint Commission requested the changes to the rule.

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the Idaho Administrative Bulletin, Volume 97-1, pages 11 through 18.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega or Michael E. Cooper at (208) 332-8620.

DATED this 21st day of March, 1997.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
P.O. Box 790, Boise, Idaho 83701-0790  
(208) 332-8500/(208) 334-4623 Fax

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**IDAPA 02**  
**TITLE 06**  
**Chapter 18**

**RULES GOVERNING MINT ROOTSTOCK AND CLONE PRODUCTION**

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

**The original text was published in the Idaho  
Administrative Bulletin, Volume 97-1, January 1, 1997,  
pages 11 through 18.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature for final adoption.**

**IDAPA 02 - IDAHO STATE DEPARTMENT OF AGRICULTURE**  
**02.06.38 - RULES GOVERNING THE PLUM CURCULIO QUARANTINE**  
**DOCKET NO. 02-0638-9701**

**NOTICE OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 22-1905 and 22-1915, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the existing temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. This rule establishes the Plum Curculio as a pest of concern to the Idaho fruit industry and sets forth areas under quarantine. It also regulates certain fruit and soil from quarantined areas. Restrictions governing the movement of regulated fruit and soil are listed. Acceptable treatments and the certification process for entry of fruit and soil from quarantined areas is explained.

Section 150.01.b. of the proposed rule has been amended to make a typographical correction to the rule and is being amended pursuant to Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revision which has been made to the proposed rule.

Only the section that has changes is printed in this bulletin. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 97-4, pages 1 through 4.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega or Michael E. Cooper at (208) 332-8620.

DATED this 21st day of March, 1997.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
P.O. Box 790, Boise, Idaho 83701-0790  
(208) 332-8500/(208) 334-4623 F

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**IDAPA 02**  
**TITLE 06**  
**Chapter 38**

**RULES GOVERNING THE PLUM CURCULIO QUARANTINE**

**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.**

**The complete original text was published in the  
Idaho Administrative Bulletin, Volume 97-1, January 1, 1997,  
pages 1 through 4.**

**This rule has been adopted as Final by the Agency  
and is now pending review by the  
1998 Idaho State Legislature  
for final adoption.**

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**TEXT OF DOCKET NO. 02-0638-9701**

**150. ARTICLES AND COMMODITIES COVERED.**

- |     |   |                                  |
|-----|---|----------------------------------|
| 01. | Fresh Fruit of all Plants Listed Below:                 | (1-28-97)T                       |
| a.  | Apple ( <i>Malus</i> spp.);                             | (1-28-97)T                       |
| b.  | Apricot ( <i>Prunus persica armeniaca</i> );            | <del>(1-28-97)T</del> (1-28-97)T |
| c.  | Cherry, black ( <i>P. serotina</i> );                   | (1-28-97)T                       |
| d.  | Cherry, choke ( <i>P. virginiana</i> );                 | (1-28-97)T                       |
| e.  | Cherry, pin ( <i>P. pensylvanica</i> );                 | (1-28-97)T                       |
| f.  | Cherry, sand ( <i>P. pumila</i> );                      | (1-28-97)T                       |
| g.  | Cherry, sour ( <i>P. cerasus</i> );                     | (1-28-97)T                       |
| h.  | Cherry, sweet ( <i>P. avium</i> );                      | (1-28-97)T                       |
| i.  | Crabapple ( <i>Malus</i> spp.);                         | (1-28-97)T                       |
| j.  | Hawthorn or haw ( <i>Crataegus</i> spp.);               | (1-28-97)T                       |
| k.  | Nectarine ( <i>Prunus persica nectarina</i> );          | (1-28-97)T                       |
| l.  | Peach ( <i>P. persica</i> );                            | (1-28-97)T                       |
| m.  | Pear ( <i>Pyrus communis</i> );                         | (1-28-97)T                       |
| n.  | Plum, American (wild) ( <i>Prunus alleghaniensis</i> ); | (1-28-97)T                       |

- o. Plum, beach (*P. maritima*); (1-28-97)T
  - p. Plum, European (*P. domestica*); (1-28-97)T
  - q. Plum, Japanese (*P. salicina*); (1-28-97)T
  - r. Prune (*P. spp.*); (1-28-97)T
  - s. Quince (*Cydonia oblonga*). (1-28-97)T
02. Soil. Soil or other growing medium within the drip zone of plants producing or which have produced fruit as listed in Subsection 150.01. (1-28-97)T



**IDAPA 02 - DEPARTMENT OF AGRICULTURE**  
**02.06.39 - RULES GOVERNING MINIMUM STANDARDS FOR**  
**PLANTING UNCERTIFIED SEED POTATOES IN IDAHO**

**DOCKET NO. 02-0639-9701**

**NOTICE OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 1998 Idaho State Legislature for final adoption. The pending rule becomes final and effective at the conclusion of the regular or special legislative session at which the rule is submitted for review, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-505, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. This rule establishes the requirements for planting uncertified seed potatoes in Idaho. It also establishes the procedure for reporting to the Department the planting of uncertified seed potatoes and the annual survey of not less than fifteen percent (15%) of Idaho potato growers for compliance with this rule and the provisions of Title 22, Chapter 5, Idaho Code.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 97-5, pages 17 through 19.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Dr. Roger Vega or Michael E. Cooper at (208) 332-8620.

DATED this 21st day of March, 1997.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
P.O. Box 790, Boise, Idaho 83701-0790  
(208) 332-8500/(208) 334-4623 Fax

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**IDAPA 02**  
**TITLE 06**  
**Chapter 39**

**RULES GOVERNING MINIMUM STANDARDS FOR PLANTING**  
**UNCERTIFIED SEED POTATOES IN IDAHO**

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

**The original text was published in the Idaho**  
**Administrative Bulletin, Volume 97-5, May 7, 1997,**  
**pages 17 through 19.**

**This rule has been adopted as Final by the Agency**  
**and is now pending review by the**  
**1998 Idaho State Legislature for final adoption.**

**IDAPA 10 - BOARD OF PROFESSIONAL ENGINEERS AND  
PROFESSIONAL LAND SURVEYORS**

**10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY**

**DOCKET NO. 10-0102-9701**

**NOTICE OF PROPOSED RULES**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency proposed rule-making. The action is authorized pursuant to Section 54-1208, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 1997.

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

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rule-making:

The proposed rulemaking corrects grammatical errors; defines "misconduct"; clarifies the responsibilities of parties associated with the discovery of material discrepancies, errors or omissions; requires notification of conflict of interest in writing; requires written permission to perform professional work outside a person's regular work; precludes seeking employment on an assignment for which another is employed; precludes accepting a contingent fee contract; requires written permission to reveal confidential facts data or information; clarifies that complaint affidavits must be sworn to or affirmed; clarifies that the rules are exempt from statutes of limitations; places the Administrative Appeals section at another location within the rules; and deletes reference to Inclusive Gender and Severability which are covered elsewhere in the Administrative Code.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:  
No fees are involved in this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the amendments are primarily for clarification of existing rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact David L. Curtis, P.E., Executive Secretary of the Board at (208) 334-3860.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 2, 1997.

DATED this 30th day of April, 1997

David L. Curtis, P.E., Executive Secretary  
Board of Registration of Professional Engineers and Professional Land Surveyors  
600 S. Orchard, Suite A  
Boise, Idaho 83705-1242  
(208) 334-3860 or FAX (208) 334-2008

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**TEXT OF DOCKET NO. 10-0102-9701**

**001. TITLE AND SCOPE.**

01. Title. These rules shall be cited in full as Idaho Board of Registration of Professional Engineers and Professional Land Surveyors, IDAPA 10, TITLE 01, Chapter 02, "Rules of Professional Responsibility." (7-1-93)

02. Scope. In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following Rules of Professional Responsibility, hereinafter referred to as Rules, have been promulgated in accordance with Section 54-1208, Idaho Code, and shall be binding in the state of Idaho upon every person holding a certificate of registration as a Professional Engineer or Professional Land Surveyor, on all entities authorized to offer or perform engineering or land surveying services through a corporation or other legal entity and on every person holding a certificate as an engineer-in-training or a certificate as a land surveyor-in-training. Each Registrant and Certificate Holder under the laws of the state of Idaho is charged with being familiar with these Rules and knowledgeable in their application to the practice of engineering and land surveying. Such application shall include the recognition that the practice of engineering or the practice of land surveying is a privilege and the Registrant or Certificate Holder shall be forthright and candid in statements or written responses to the Board, or its representatives, on matters pertaining to these Rules. All Registrants or Certificate Holders in their original application, and for renewals thereof, shall certify that they have read and agree to abide by the Rules as which are in force at the time of application or renewal. These Rules shall not be a basis for action involving civil liability, however, failure to obey these Rules may subject a Registrant or Certificate Holder to Board action pursuant to Chapter 12, Title 54, Idaho Code. (7-1-93)(\_\_\_\_)

**995002. ADMINISTRATIVE APPEALS.**

Persons desiring to contest the actions taken in accordance with these rules shall seek administrative relief under the Attorney General's Rules, IDAPA 04, TITLE 11, Chapter 01, "~~Model~~ Idaho Rules of Administrative Procedure." (4-22-94)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. DEFINITIONS.**

For the purposes of these rules, the following terms are used as defined below: (7-1-93)

01. Board. The Board of Registration of Professional Engineers and Professional Land Surveyors. (7-1-93)

02. Certificate Holder. Any person holding a current certificate as an Engineer-in-Training or a Land Surveyor-in-Training or a corporation (which is also herein referred to as a "person") holding a current certificate of authorization, as which has been duly issued by the Board. (7-1-93)(\_\_\_\_)

03. Registrant. Any person holding a current certificate of registration as a Professional Engineer, a Professional Land Surveyor, or a combination thereof, as which has been duly issued by the Board. (7-1-93)(\_\_\_\_)

04. Misconduct. A violation or attempt to violate these rules of professional responsibility or to knowingly assist or induce another to do so, or do so through the acts of another; commission of a criminal act that reflects adversely on the registrant's or certificate holder's honesty, trustworthiness or fitness as a registrant or certificate holder in other respects; engage in conduct involving dishonesty, fraud, deceit or misrepresentation; state or imply an ability to influence improperly a government agency or official. (\_\_\_\_)

**005. RESPONSIBILITY TO THE PUBLIC.**

01. Primary Obligation. All Registrants and Certificate Holders shall at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. (7-1-93)

02. Standard of Care. Each Registrant and Certificate Holder shall perform in accordance with the standard of care for the profession and is under duty to the party for whom the service is to be performed to exercise

such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (7-1-93)

03. Professional Judgement. If any Registrant's or Certificate Holder's professional judgement is overruled under circumstances where the safety, health and welfare of the public are endangered, the Registrant or Certificate Holder shall inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. (7-1-93)

04. Obligation to Communicate Discovery of Discrepancy. If a Registrant or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Registrant or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer shall make a reasonable effort to inform, in writing, and obtain a response from the Registrant or Certificate Holder, whose work is believed to contain the discrepancy, error or omission. The Registrant or Certificate Holder whose work is believed to contain the discrepancy shall respond in writing within sixty (60) calendar days to any question about his work raised by another Registrant or Certificate Holder. Failure to respond shall be considered misconduct on the part of the Registrant or Certificate Holder whose work is believed to contain the discrepancy. The discoverer and shall notify the Board in the event a satisfactory response is not obtained. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**008. CONFLICT OF INTEREST.**

01. Conflict of Interest to Be Avoided. Each Registrant or Certificate Holder shall conscientiously avoid conflict of interest with an employer or client, and, when unavoidable, shall forthwith disclose the circumstances in writing to the employer or client. In addition, the Registrant or Certificate Holder shall promptly inform the employer or client in writing of any business association, interests, or circumstances which could influence a Registrant's or Certificate Holder's judgement or quality of service, or jeopardize the clients' interests. (7-1-93)( )

02. Compensations From Multiple Parties on the Same Project. A Registrant or Certificate Holder may accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, provided the circumstances are fully disclosed, in writing, in advance and agreed to by all interested parties. (7-1-93)

03. Solicitation From Material or Equipment Suppliers. A Registrant or Certificate Holder shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying or recommending the products of said suppliers, except with full disclosure as outlined in Subsection 008.02. (7-1-93)

04. Gratuities. A Registrant or Certificate Holder shall not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment or other favors directly or indirectly, from contractors, their agents or other third parties dealing with a client or employer in connection with work for which the Registrant or Certificate Holder is responsible, which can be construed to be an effort to improperly influence the Registrant's or Certificate Holder's professional judgement. Minor expenditures such as advertising trinkets, novelties and meals are excluded. Neither shall a Registrant or Certificate Holder make any such improper offer. (7-1-93)

05. Solicitation From Agencies. A Registrant, a Certificate Holder or a representative thereof shall not solicit or accept a contract from a governmental authority on which an existing principal or officer of his organization serves as a member of the elected policy and governing body of such governmental authority or serves as a member of an entity of such governmental authority having the right to contract for the services of a Registrant or a Certificate Holder. (7-1-93)

06. Professional Services Decisions of Agencies. A Registrant, Certificate Holder or representative thereof serving as a member, advisor or consultant to a governmental board, commission or department shall not participate in decisions with respect to professional services to be offered, that have been offered or may have been performed by that person's associates, firm or employer for the concerned governmental body upon which that person

serves, whether such professional services are commissioned by an entity of the said governmental body or by another person or entity. (7-1-93)

07. Unfair Advantage of Position and Work Outside Regular Employment. When a Registrant or an individual Certificate Holder is employed in a full time position, the person shall not use the advantages of the position to compete unfairly with other professionals and shall not accept professional employment outside of that person's regular work or interest without the knowledge of and written permission or authorization from that person's employer. (7-1-93)(\_\_\_\_)

**009. SOLICITATION OF WORK.**

01. Commissions. A Registrant or Certificate Holder shall not pay or offer to pay, either directly or indirectly, any commission, gift or other valuable consideration in an effort to secure work, except to bona fide employees or bona fide established business enterprises retained by a Registrant or Certificate Holder for the purpose of securing business or employment. (7-1-93)

02. Representation of Qualifications. A Registrant or Certificate Holder shall not falsify or permit misrepresentation of his or his associates' academic or professional qualifications, and shall not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint-venturers or his or their past accomplishments with the intent and purpose of enhancing qualifications for the work. The Registrant or Certificate Holder shall not indulge in publicity that is misleading. (7-1-93)

03. Assignment on Which Others Are Employed. A Registrant or Certificate Holder shall not knowingly seek or accept employment for professional services for an assignment which another Registrant or Certificate Holder is employed, or contracted to perform without the currently employed or contracted entity being informed in writing. (7-1-93)(\_\_\_\_)

04. Contingency Fee Contracts. A Registrant or Certificate Holder shall not accept an agreement, contract, or commission for professional services on a "contingency basis" which may compromise his professional judgement and shall ~~avoid~~ not accept an agreement, contract or commission for professional services which includes provisions wherein the payment of fee involved is contingent on a "favorable" conclusion, recommendation or judgement. (7-1-93)(\_\_\_\_)

05. Selection on the Basis of Qualifications. A Registrant or Certificate Holder should seek professional employment or professional service work on the basis of qualifications and competence for proper accomplishment of the work assignment. (7-1-93)

**010. IMPROPER CONDUCT.**

01. Fraudulent or Dishonest Enterprises. A Registrant or Certificate Holder shall not knowingly associate with, or permit the use of his name or the firm name in a business venture by any person or firm which it is known, or there is reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature. (7-1-93)

02. Confidentiality. Registrants or Certificate Holders shall not reveal confidential facts, data or information obtained in a professional capacity without prior written consent of the client or employer except as authorized or required by law. (7-1-93)(\_\_\_\_)

03. Actions by Other Jurisdictions. The revocation, suspension or denial of a license to practice Professional Engineering or Professional Land Surveying, as an individual or through a corporation, in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Idaho laws regulating the practice of Engineering and Land Surveying, or any code or rules promulgated by the Board, shall be sufficient cause after a hearing for the denial, suspension or revocation of a certificate of registration or certificate of authorization to practice engineering or land surveying in this state. (7-1-93)

**011. RULE INFRACTIONS.**

01. Affidavits For Rule Infractions. Any person who believes that a Registrant or Certificate Holder by his actions, or failure to properly act, is guilty of fraud, deceit, negligence, incompetency, misconduct, or violation of these Rules may file a written affidavit with the Executive Secretary of the Board which shall be sworn to or affirmed under penalty of perjury, signed and in which the alleged rule infractions shall be clearly set forth and that the applicable Registrant or Certificate Holder, or both, should be considered for the appropriate disciplinary action by the Board. Following the receipt of such affidavit, the Board shall investigate, hold hearings and adjudicate the charges, in accordance with the provisions of the statutes. Proceedings under these rules shall be exempt from all statutes of limitations. (7-1-93)( )

02. Investigation of Rule Infractions. The Board may, at its own discretion, initiate investigation of alleged or possible rule infractions that have come to its attention. (7-1-93)

**012. -- 9946. (RESERVED).**

**996. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**~~998. INCLUSIVE GENDER.~~**

~~For the purpose of this chapter, words used in the masculine gender include the feminine, or vice versa, where appropriate. (7-1-93)~~

**~~999. SEVERABILITY.~~**

~~The rules governing this chapter are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (7-1-93)~~

**~~998. -- 999. (RESERVED).~~**

**IDAPA 11 - DEPARTMENT OF LAW ENFORCEMENT**  
**11.04.03 - RULES GOVERNING GREYHOUND RACING**  
**DOCKET NO. 11-0403-9701**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** This temporary rule is effective May 19, 1997 and remains effective until rescinded or superseded by replacement rule or the approval of the final rule by the legislature or such other date specified in the concurrent resolution, or upon the conclusion of the 1997 legislative session, whichever is sooner.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 54-2506, Idaho Code and Title 19, Chapter 51, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 1997.

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

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

The proposed rule repeals all provisions of the greyhound racing rules, IDAPA 11.04.03, since Greyhound Racing no longer exists in the state of Idaho.

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

Compliance with deadlines in amendments to governing law.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted since this rule is merely removing any provisions of the greyhound racing rules, since greyhound racing no longer exists in the state of Idaho.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this proposed rule, contact Eugene O. (Jack) Baker, at (208) 884-7080.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be delivered on or before July 24, 1997.

DATED this 20th day of May, 1997.

Eugene O. (Jack) Baker  
Executive Director  
Idaho State Racing Commission  
Department of Law Enforcement  
700 S Stratford Drive  
P.O. Box 700  
Meridian, ID 83680-0700  
(208) 884-7080 / (208) 884-7098 (FAX)

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**THIS RULE IS REPEALED IN ITS ENTIRETY**

**IDAPA 15 - OFFICE OF THE GOVERNOR**  
**15.03.01 - RULES GOVERNING IDAHO FOREST PRODUCTS COMMISSION**  
**DOCKET NO. 15-0301-9701**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** This temporary rule is effective July 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 54-2506(1) and 38-1508(h), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 1997.

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

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

To conform the rules to the 1997 legislative changes clarifying the types of businesses subject to assessment and to allow the commission increased access to state records to identify businesses for assessment. Also, minor changes clarifying meeting times and commission member terms.

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

To promulgate rules to conform to the 1997 statutory changes and clarification of existing statutes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this proposed rule, contact Betty Munis at (208) 334-3292.

Anyone may submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be delivered on or before July 23, 1997.

DATED this 20th day of May, 1997.

Kevin D. Satterlee, Deputy Attorney General  
Office of the Attorney General  
Statehouse, Room 114  
P. O. Box 83720  
Boise, Idaho 83720-0010  
(208) 332-3081  
(208) 334-3107 (FAX)

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**TEXT OF DOCKET NO. 15-0301-9701**

**004. DEFINITIONS.**

As used in this chapter:

(11-22-93)



01. Assessment. The fee levied upon all logs harvested within the state of Idaho or measured or processed within the state of Idaho, even though such logs may have originally been cut in another state and transported into Idaho for processing, and upon all employees, including self employed, engaged solely in the harvest or transport of timber, logs, unfinished lumber, chips, sawdust, shavings or hog fuel or other forest products in Idaho, and upon each acre of forest land owned by a businesses that owns more than fifty thousand (50,000) acres of forest land and has no manufacturing facilities within the state. ~~(11-22-93)~~(7-1-97)T

02. Commission. The Idaho Forest Products Commission. (11-22-93)

03. Fiscal Year and Assessment Year. January 1 through December 31 of any year. (11-22-93)

04. Person, Firm and Business Organizations. An individual, partnership, association or corporation qualified to do business. (11-22-93)

05. Substantial Source of Income. Essential part of a person's income. (11-22-93)

06. Financial Supporter. Person who pays an assessment to the Commission. (11-22-93)

07. Communication Skills. Demonstrated ability to effectively transfer thoughts, opinions or information orally or in writing. (11-22-93)

08. Natural Resource Education. Scientific or technical knowledge or experience in the fields of forestry, wildlife management, biology and range sciences. (11-22-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. MEETINGS.**

The Commission shall hold regular ~~quarterly~~ meetings. Special meetings of the Commission may be determined by either the chair or upon the call of any three (3) members of the Commission. ~~(11-22-93)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. NOMINATIONS, VACANCIES AND TERMS.**

01. Chair and Vice-Chair. The Commission shall nominate and elect, by majority vote, a Chair to serve as presiding officer at all Commission meetings. The Commission may also nominate and elect, by majority vote, a Vice-Chair to accept the duties of the Chair in the event that the Chair is unable to attend a meeting of the Commission. The term of the office of Chair and Vice-Chair shall be one (1) year, commencing July 30th of each year. (11-22-93)

02. Nominations. Nominations for expiring seats on the Commission shall be made by the financial supporters of the Commission from the district in which the seat is expiring no later than June 1 of that year. The Commission shall provide nomination applications to all financial supporters and shall forward the names of all qualified nominees to the Governor. The Commission may also make recommendations or nominations. In making the appointments, the Governor shall take into consideration recommendations made to him by the Commission and by organizations who represent or are engaged in harvesting, transporting or manufacturing forest products. (11-22-93)

03. Vacancies. Vacancies in any unexpired term shall be filled by the Governor for the remainder of the unexpired term. The Commission will identify qualified candidates and forward their names to the Governor. The member appointed to fill the vacancy shall represent the same region and interests as the person whose seat has become vacant. (11-22-93)

04. Terms. Terms of office for Commission members shall consist of ~~two~~ three (3) year terms ~~and three five (5) year terms~~ beginning on July 1 of the year of appointment. ~~At the end of each of the above terms, three (3) year terms for Commission members shall be rotated between districts one, two and three, beginning with district two. District four shall have one three (3) year term Commission member and one five (5) year term Commission member.~~ (11-22-93)(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. ASSESSMENTS AND FEES.**

01. Assessments. An assessment for all logs harvested, measured or processed within the state of Idaho and for all employees, including self employed, engaged ~~solely~~ in the harvest or transport of timber, logs, unfinished lumber, chips, sawdust, shavings or hog fuel ~~or other forest products~~ in Idaho, and for each acre of forest land owned by a ~~businesses~~ that has no Idaho manufacturing facilities and owns more than fifty thousand (50,000) acres of forest land shall be set by the Commission no later than January 1 for that year and shall be invoiced no later than the last day of the fourth week of ~~March~~ of that year. Each assessment will be based on an equal percentage of the maximum allowable amount. (11-22-93)(7-1-97)T

a. Financial supporters of the Commission may choose to pay their assessment in either one full payment due thirty (30) days after the posting date of the invoice or in equal ~~quarterly~~ payments with payment in full made by December 31 of that year. (11-22-93)(7-1-97)T

b. Assessments on logs processed into various manufactured products shall be levied against the forest products manufacturer which initiates the manufacturing process. (11-22-93)

c. The Commission shall establish a policy and schedule for insufficient fund checks which will be reviewed annually ~~during the fourth quarter meeting~~. This policy and schedule shall be available to the public under the procedures set forth by the Public Records Act, Chapter 9, Title 3 of the Idaho Code. (11-22-93)(7-1-97)T

02. Exemptions. No assessment shall be levied against the materials, transportation or processing activities used in the harvest, transport or manufacturing of: (1) fence or corral posts or rails, (2) shingles or shakes, (3) firewood or pellets for energy or heating purposes, or, (4) logs used in building log homes or other structures. Assessments shall not be levied upon logs that are transferred, in their original form, to another manufacturing entity within the state of Idaho that then initiates the manufacturing process. Assessments shall be levied against all other harvesting, transporting or manufacturing of ~~all~~ other forest products except those transported by railroad. (11-22-93)(7-1-97)T

03. Billing. Annually, the Commission shall bill each financial supporter for their pro rata share of the Commission budget and provide each financial supporter the opportunity to pay the annual assessment in full thirty (30) days after the posting date of the first ~~quarter~~ invoice or in four equal installments ~~due quarterly~~. (11-22-93)(7-1-97)T

04. Cooperation With Other Departments. In determining assessments levied by the Commission, the Commission may access the records of the Department of Labor, the Board of Scaling Practices, the Tax Commission, the Transportation Department, and the Department of Lands. Such records may include, but are not limited to those reports filed pursuant to Sections 49-434, 49-1001, 38-122, and 38-123, Idaho Code. (7-1-97)T

**IDAPA 15 - OFFICE OF THE GOVERNOR**  
**15.15.14 - RULES GOVERNING IDAHO CHILD CARE PROGRAM,**  
**CHILD CARE AND DEVELOPMENT BLOCK PROGRAM RULES**

**DOCKET NO. 15-1514-9701**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 67-802, Idaho Code, pursuant to 45 CFR Parts 98 and 99, Public Law 101-508 and Article 4, Section 5 of the Idaho Constitution.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 1, 1997.

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

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

This program was transferred to the Department of Health and Welfare. This docket proposes to repeal the entire chapter of rules for the Child Care Program, Child Care and Development Block Program.

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

The responsibility for the program has been moved from the Office of the Governor to the Department of Health and Welfare. The repeal of the rule complies to amendments made to existing law.

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

There are no fees being imposed or increased as a result of this rule-making.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811 negotiated rule making was not conducted.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Dawn Kramer, Office of the Governor, (208) 334-2100.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 23, 1997.

DATED June 6, 1997

Dawn Kramer, Staff Assistant  
Office of the Governor  
Statehouse  
P.O. Box 83720  
Boise, ID 83720-0034  
(208) 334-2100, FAX (208) 334-3454

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**THIS RULE IS REPEALED IN ITS ENTIRETY**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.01.01 - RULES FOR THE CONTROL OF AIR POLLUTION IN IDAHO**  
**DOCKET NO. 16-0101-9602**  
**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Sections 39-105 and 39-107, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this proposed rulemaking will be held as follows: Tuesday, August 5, 1997, 7 p.m., Division of Environmental Quality Conference Center, 1410 N. Hilton, Boise, Idaho.

The hearing site will be accessible to the physically disabled. Interpreters for persons with hearing impairments and brailled or taped information for persons with visual impairments can be provided upon five days' notice. For arrangements, contact the undersigned at (208) 373-0418.

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

This proposed rule would allow owners or operators desiring to construct certain non-major air pollution sources to begin construction within fifteen (15) days of submitting all the pertinent application information. However, the owner or operator may not operate the source until the final permit to construct is issued. The text of the proposed rule is based on a consensus recommendation resulting from the negotiated rulemaking process. The negotiation was open to the public. Actual participants in the negotiation included industry representatives, consultants, members of the public, and other interested parties. The Notice of Negotiated Rulemaking was published in the Idaho Administrative Bulletin, Volume 96-1, January 3, 1996, page 164.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on questions concerning the proposed rulemaking, contact Martin Bauer at (208)373-0502.

Anyone may submit written comments regarding this proposed rule. All written comments must be received by the undersigned on or before August 6, 1997.

Dated this 2nd day of July, 1997.

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

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**TEXT OF DOCKET NO. 16-0101-9601**

**006. GENERAL DEFINITIONS.**

01. (RESERVED). (3-7-95)L
02. Act. The Environmental Protection and Health Act of 1972 as amended (Sections 39-101 through 39-130, Idaho Code). (5-1-94)
03. Actual Emissions. The emission rate, in mass per unit time, of an air pollutant from a stationary

source or emissions unit, averaged over the two (2) year period which is representative of normal operation and which precedes a particular date or the date on which an application for a permit was filed. Actual emissions shall be calculated using actual operating hours, production rates, and types of materials processed, stored, or combusted during this time period, except that: (5-1-94)

a. The Department may allow the use of a different time period upon a determination that it is more representative of normal operation; (5-1-94)

b. The Department may consider emission rates specifically allowed in a permit to construct or operating permit to be equivalent to actual emissions if the State Implementation Plan demonstration of attainment and/or maintenance is explicitly based on the permitted emissions; and (5-1-94)

c. For any stationary source or emissions unit which has not yet begun normal operations, actual emissions shall be considered to be those allowed in the applicable permit to construct or operating permit. (5-1-94)

04. Air Pollutant/Air Contaminant. Any substance, including but not limited to, dust, fume, gas, mist, odor, smoke, vapor, pollen, soot, carbon or particulate matter or any combination thereof, regulated under the Act, 42 U.S.C. Sections 7401 through 7671q. these rules or any federal air quality regulation. (5-1-94)

05. Air Quality. The specific measurement in the ambient air of a particular air pollutant at any given time. (5-1-94)

06. Air Quality Criterion. The information used as guidelines for decisions when establishing air quality goals and air quality standards. (5-1-94)

07. Ambient Air. That portion of the atmosphere, external to buildings, to which the general public has access. (5-1-94)

08. Ambient Air Quality Violation. Any single ambient concentration of any air pollutant that exceeds any national, state or local ambient air quality standard at any point in an area outside the source property line. (5-1-94)

09. Atmospheric Stagnation Advisory. An air pollution alert declared by the Department when air pollutant impacts have been observed and/or meteorological conditions are conducive to additional air pollutant buildup. (5-1-94)

10. Attainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as having ambient concentrations equal to or less than national primary or secondary ambient air quality standards for a particular air pollutant or air pollutants. (5-1-94)

11. Baseline (Area, Concentration, Date). See Section 579. (5-1-94)

12. Best Available Control Technology (BACT). An emission standard (including a visible emissions standard) based on the maximum control of emissions achievable through application of production processes or available methods, systems, and techniques (including fuel cleaning or treatment or innovative fuel combination techniques) for control of such contaminants. BACT shall be determined on a case-by-case basis, taking into account energy, environmental and economic impacts, and other costs, and shall be at least as stringent as any applicable Sections of 40 CFR Part 60, 40 CFR Part 61 and 40 CFR Part 63. If an emissions standard is infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed as BACT. (5-1-94)

13. Board. Idaho Board of Health and Welfare. (5-1-94)

14. Breakdown. An unplanned and unforeseeable failure of any air pollution control equipment or emissions unit, including process equipment, which may cause excess emissions where such failure is not intentional or the result of negligence or improper maintenance. (5-1-94)

15. BTU. British thermal unit. (5-1-94)

16. Clean Air Act. The federal Clean Air Act, 42 U.S.C. Sections 7401 through 7671q. (5-1-94)
17. Collection Efficiency. The overall performance of the air cleaning device in terms of ratio of materials collected to total input to the collector unless specific size fractions of the contaminant are stated or required. (5-1-94)
18. Commence Construction or Modification. To engage in a continuous program of construction or modification, or to engage in a program of planned grading, dredging, or landfilling, specifically designed for the stationary source or facility in preparation of the fabrication, erection, or installation of the building components of the stationary source or facility. For the purpose of this definition, delays or interruptions resulting from natural disasters, strikes, litigation, and other matters beyond the control of the owner, shall be disregarded in determining whether a construction or a modification program has commenced and/or is continuous. (5-1-94)
19. Complete. A determination made by the Department that all information needed to process a permit application has been submitted for review. (5-1-94)
20. Construction. Fabrication, erection, installation, or modification of a stationary source or facility. (5-1-94)
21. Control Equipment. Any method, process or equipment which removes, reduces or renders less noxious, air pollutants discharged into the atmosphere. (5-1-94)
22. Controlled Emission. An emission which has been treated by control equipment to remove all or part of an air pollutant before release to the atmosphere. (5-1-94)
23. Criteria Air Pollutant. Any of the following: PM-10; sulfur oxides; ozone, nitrogen dioxide; carbon monoxide; fluorides; lead. (7-1-97)
24. Department. The Department of Health and Welfare. (5-1-94)
25. Designated Facility. Any of the following facilities: (5-1-94)
- a. Fossil-fuel fired steam electric plants of more than two hundred fifty (250) million BTU's per hour heat input; (5-1-94)
  - b. Coal cleaning plants (thermal dryers); (5-1-94)
  - c. Kraft pulp mills; (5-1-94)
  - d. Portland cement plants; (5-1-94)
  - e. Primary zinc smelters; (5-1-94)
  - f. Iron and steel mill plants; (5-1-94)
  - g. Primary aluminum ore reduction plants; (5-1-94)
  - h. Primary copper smelters; (5-1-94)
  - i. Municipal incinerators capable of charging more than two hundred and fifty (250) tons of refuse per day; (5-1-94)
  - j. Hydrofluoric, sulfuric, and nitric acid plants; (5-1-94)
  - k. Petroleum refineries; (5-1-94)

- l. Lime plants; (5-1-94)
- m. Phosphate rock processing plants; (5-1-94)
- n. Coke oven batteries; (5-1-94)
- o. Sulfur recovery plants; (5-1-94)
- p. Carbon black plants (furnace process); (5-1-94)
- q. Primary lead smelters; (5-1-94)
- r. Fuel conversion plants; (5-1-94)
- s. Sintering plants; (5-1-94)
- t. Secondary metal production facilities; (5-1-94)
- u. Chemical process plants; (5-1-94)
- v. Fossil-fuel boilers (or combination thereof) of more than two hundred and fifty (250) million BTU's per hour heat input; (5-1-94)
- w. Petroleum storage and transfer facilities with a capacity exceeding three hundred thousand (300,000) barrels; (5-1-94)
- x. Taconite ore processing facilities; (5-1-94)
- y. Glass fiber processing plants; and (5-1-94)
- z. Charcoal production facilities. (5-1-94)
26. Director. The Director of the Department of Health and Welfare or his designee. (5-1-94)
27. Effective Dose Equivalent. The sum of the products of absorbed dose and appropriate factors to account for differences in biological effectiveness due to the quality of radiation and its distribution in the body of reference man. The unit of the effective dose equivalent is the rem. It is generally calculated as an annual dose. (5-1-94)
28. Emission. Any controlled or uncontrolled release or discharge into the outdoor atmosphere of any air pollutants or combination thereof. Emission also includes any release or discharge of any air pollutant from a stack, vent, or other means into the outdoor atmosphere that originates from an emission unit. (5-1-94)
29. Emission Standard. A permit or regulatory requirement established by the Department, or a requirement contained in 40 CFR Part 60, 40 CFR Part 61, 40 CFR Part 63 or the State Implementation Plan (SIP), which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirements which limit opacity, prescribe equipment, set fuel specifications, or prescribe operation or maintenance procedures to assure continuous emission control. (5-1-94)
30. Emission Standard Violation. Any emission rate that exceeds the applicable source-specific emission standard or any action or inaction that contravenes any source-specific opacity limit, equipment requirement, fuel specification or required operation or maintenance procedures. (5-1-94)
31. Emissions Unit. An identifiable piece of process equipment or other part of a facility which emits or may emit any air pollutant. This definition does not alter or affect the term "unit" for the purposes of 42 U.S.C. Sections 7651 through 7651o. (5-1-94)

32. EPA. The United States Environmental Protection Agency and its Administrator or designee. (5-1-94)
33. Environmental Remediation Source. A stationary source that functions to remediate or recover any release, spill, leak, discharge or disposal of any petroleum product or petroleum substance, any hazardous waste or hazardous substance from any soil, ground water or surface water, and shall have an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. Nothing in this definition shall be construed so as to actually limit remediation projects to five years or less of total operation. (5-1-95)
34. Existing Stationary Source or Facility. Any stationary source or facility that exists, is installed, or is under construction on the original effective date of any applicable provision of this chapter. (5-1-94)
35. Facility. All of the combined sources which emit air pollutants, belong to the same industrial grouping (using the Major Groups as described in the Standard Industrial Classification Manual), are located on one or more contiguous or adjacent properties, and are owned or operated by the same person or by persons under common control. (5-1-94)
36. Federal Class I Area. Any federal land that is classified or reclassified "Class I" pursuant to Section 580. (5-1-94)
37. Federal Land Manager. The Secretary of the federal department with authority over any federal lands in the United States. (5-1-94)
38. Fire Hazard. The presence or accumulation of combustible material of such nature and in sufficient quantity that its continued existence constitutes an imminent and substantial danger to life, property, public welfare or adjacent lands. (5-1-94)
39. Fuel-Burning Equipment. Any furnace, boiler, apparatus, stack and all appurtenances thereto, used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer. (5-1-94)
40. Fugitive Dust. Fugitive emissions composed of particulate matter. (5-1-94)
41. Fugitive Emissions. Those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening. (5-1-94)
42. Garbage. Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food including, but not limited to, waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (5-1-94)
43. Grain Elevator. Any plant or installation at which grain is unloaded, handled, cleaned, dried, stored, or loaded. (5-1-94)
44. Grain Storage Elevator. Any grain elevator located at any wheat flour mill, wet corn mill, dry corn mill (human consumption), rice mill, or soybean extraction plant which has a permanent grain storage capacity of 35,200 cubic meters (ca. 1 million bushels). (5-1-94)
45. Grain Terminal Elevator. Any grain elevator which has a permanent storage capacity of more than 88,100 cubic meters (ca. 2.5 million bushels), except those located at animal food manufacturers, pet food manufacturers, cereal manufacturers, breweries, and livestock feedlots. (5-1-94)
46. Hazardous Air Pollutant (HAP). Any air pollutant which is regulated at its emitting source by 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63. (5-1-94)
47. Hazardous Waste. Any waste or combination of wastes of a solid, liquid, semisolid, or contained gaseous form which, because of its quantity, concentration or characteristics (physical, chemical or biological) may: (5-1-94)



a. Cause or significantly contribute to an increase in deaths or an increase in serious, irreversible, or incapacitating reversible illnesses; or (5-1-94)

b. Pose a substantial threat to human health or to the environment if improperly treated, stored, disposed of, or managed. Such wastes include, but are not limited to, materials which are toxic, corrosive, ignitable, or reactive, or materials which may have mutagenic, teratogenic, or carcinogenic properties; provided that such wastes do not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are allowed under a national pollution discharge elimination system permit, or source, special nuclear, or by-product material as defined by 42 U.S.C. Sections 2014(e),(z) or (aa). (5-1-94)

48. Hot-Mix Asphalt Plant. Those facilities conveying proportioned quantities or batch loading of cold aggregate to a drier, and heating, drying, screening, classifying, measuring and mixing the aggregate and asphalt for the purpose of paving, construction, industrial, residential or commercial use. (5-1-94)

49. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of refuse by burning. "Open Burning" is not considered incineration. For purposes of these rules, the destruction of any combustible liquid or gaseous material by burning in a flare stack shall be considered incineration. (5-1-94)

50. Indian Governing Body. The governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government. (5-1-94)

51. Indian Reservation. Any federally recognized reservation established by treaty, agreement, executive order, or act of Congress. (5-1-94)

52. Kraft Pulping. Any pulping process which uses, for a cooking liquor, an alkaline sulfide solution containing sodium hydroxide and sodium sulfide. (5-1-94)

53. Lowest Achievable Emission Rate (LAER). The rate of emissions based on the most stringent of the following: (5-1-94)

a. The most stringent emission standard which has been demonstrated in practice by similar stationary sources, facilities, or operations; (5-1-94)

b. The most stringent emission standard in any state implementation plan for similar stationary sources, facilities or operations, unless the owner or operator of the proposed facility demonstrates that such standards are not achievable; or (5-1-94)

c. Any applicable provision in 40 CFR Part 60. (5-1-94)

54. Major Facility. (5-1-94)

a. Any facility which has actual or allowable emissions of one hundred (100) tons per year or more of any air pollutant. (5-1-94)

b. Fugitive dust shall be included in the determination of emissions only for designated facilities and those source categories regulated under 40 CFR Part 60, 40 CFR Part 61, or 40 CFR Part 63. (5-1-94)

55. Major Modification. (5-1-94)

a. Any modification of a major facility that would result in a significant net emission increase of any air pollutant; or (5-1-94)

b. Any modification of a facility that would result in a potential emissions increase of any air pollutant of one hundred (100) tons per year or more; (5-1-94)

c. Fugitive dust shall be included in the determination of emissions only for designated facilities and those source categories regulated under 40 CFR Part 60, 40 CFR Part 61 or 40 CFR Part 63. (5-1-94)

56. Member of the Public. For purposes of Subsection 006.88.a.xx., a person located at any off-site point where there is a residence, school, business or office. (3-20-97)

57. Modification. Any physical change in, or change in the method of operation of, a stationary source or facility which increases the amount of any air pollutant to which an emission or ambient air quality standard applies emitted by such stationary source or facility or which results in the emission of any air pollutant to which an emission or ambient air quality standard applies not previously emitted except that routine maintenance, repair and replacement shall not be considered physical changes, and the following shall not be considered a change in the method of operation: (5-1-94)

a. An increase in the production rate if such increase does not exceed the operating design capacity of the affected stationary source, and if a more restrictive production rate is not specified in a permit; (5-1-94)

b. An increase in hours of operation if more restrictive hours of operation are not specified in a permit; and (5-1-94)

c. Use of an alternative fuel or raw material if prior to January 6, 1975 and the date any emission or ambient air quality standard becomes applicable to such stationary source, the affected stationary source is specifically designed to accommodate such alternative use and is not specifically prohibited in a permit. (5-1-94)

58. Monitoring. Sampling and analysis, in a continuous or noncontinuous sequence, using techniques which will adequately measure emission levels and/or ambient air concentrations of air pollutants. (5-1-94)

59. Multiple Chamber Incinerator. Any article, machine, equipment, contrivance, structure or part of a structure used to dispose of combustible refuse by burning, consisting of three (3) or more refractory lined combustion furnaces in series physically separated by refractory walls, interconnected by gas passage ports or ducts and employing adequate parameters necessary for maximum combustion of the material to be burned. (5-1-94)

60. New Stationary Source or Facility. (5-1-94)

a. Any stationary source or facility, the construction or modification of which is commenced after the original effective date of any applicable provision of this chapter; or (5-1-94)

b. The restart of a nonoperating facility shall be considered a new stationary source or facility if: (5-1-94)

i. The restart involves a modification to the facility; or (5-1-94)

ii. After the facility has been in a nonoperating status for a period of two (2) years, and the Department receives an application for a Permit to Construct in the area affected by the existing nonoperating facility, the Department will, within five (5) working days of receipt of the application notify the nonoperating facility of receipt of the application for a Permit to Construct. Upon receipt of this Departmental notification, the nonoperating facility will comply with the following restart schedule or be considered a new stationary source or facility when it does restart: Within thirty (30) working days after receipt of the Department's notification of the application for a Permit to Construct, the nonoperating facility shall provide the Department with a schedule detailing the restart of the facility. The restart must begin within sixty (60) days of the date the Department receives the restart schedule. (5-1-94)

61. Nonattainment Area. Any area which is designated, pursuant to 42 U.S.C. Section 7407(d), as not meeting (or contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant. (5-1-94)

62. Noncondensibles. Gases and vapors from processes that are not condensed at standard temperature and pressure unless otherwise specified. (5-1-94)

63. Odor. The sensation resulting from stimulation of the human sense of smell. (5-1-94)
64. Opacity. A state which renders material partially or wholly impervious to rays of light and causes obstruction of an observer's view, expressed as percent. (5-1-94)
65. Open Burning. The burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the ambient air without passing through a stack, duct or chimney. (5-1-94)
66. Operating Permit. A permit issued by the Director pursuant to Sections 300 through 387 and/or 400 through 461. (5-1-94)
67. Particulate Matter. Any material, except water in uncombined form, that exists as a liquid or a solid at standard conditions. (5-1-94)
68. Particulate Matter Emissions. All particulate matter emitted to the ambient air as measured by an applicable reference method, or any equivalent or alternative method specified in the Procedures Manual for Air Pollution Control. (7-1-97)
69. Permit to Construct. A permit issued by the Director pursuant to Sections 200 through 225. (5-1-94)
70. Person. Any individual, association, corporation, firm, partnership or any federal, state or local governmental entity. (5-1-94)
71. PM-10. All particulate matter in the ambient air with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J of 40 CFR Part 50 and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53. (5-1-94)
72. PM-10 Emissions. All particulate matter, including condensable particulates, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method specified in the Procedures Manual for Air Pollution Control. (7-1-97)
73. Potential to Emit/Potential Emissions. The maximum capacity of a facility to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit an air pollutant, provided the limitation or its effect on emissions is state ~~and~~ or federally enforceable, shall be treated as part of its design. Limitations may include, but are not limited to, air pollution control equipment, restrictions on hours of operation and restrictions on the type or amount of material combusted, stored or processed. This definition does not alter or affect the term "capacity factor" as defined in 42 U.S.C. Sections 7651 through 7651o. ~~(5-1-94)~~( )
74. Portable Equipment. Equipment which is designed to be dismantled and transported from one job site to another job site. (5-1-94)
75. PPM (parts per million). Parts of a gaseous contaminant per million parts of gas by volume. (5-1-94)
76. Prescribed Fire Management Burning. The controlled application of fire to wildland fuels in either their natural or modified state under such conditions of weather, fuel moisture, soil moisture, etc., as will allow the fire to be confined to a predetermined area and at the same time produce the intensity of heat and rate of spread required to accomplish planned objectives, including: (5-1-94)
- a. Fire hazard reduction; (5-1-94)

- b. The control of pests, insects, or diseases; (5-1-94)
  - c. The promotion of range forage improvements; (5-1-94)
  - d. The perpetuation of natural ecosystems; (5-1-94)
  - e. The disposal of woody debris resulting from a logging operation, the clearing of rights of way, a land clearing operation, or a driftwood collection system; (5-1-94)
  - f. The preparation of planting and seeding sites for forest regeneration; and (5-1-94)
  - g. Other accepted natural resource management purposes. (5-1-94)
77. Primary Ambient Air Quality Standard. That ambient air quality which, allowing an adequate margin of safety, is requisite to protect the public health. (5-1-94)
78. Process or Process Equipment. Any equipment, device or contrivance for changing any materials whatever or for storage or handling of any materials, and all appurtenances thereto, including ducts, stack, etc., the use of which may cause any discharge of an air pollutant into the ambient air but not including that equipment specifically defined as fuel-burning equipment or refuse-burning equipment. (5-1-94)
79. Process Weight. The total weight of all materials introduced into any source operation which may cause any emissions of particulate matter. Process weight includes solid fuels charged, but does not include liquid and gaseous fuels charged or combustion air. Water which occurs naturally in the feed material shall be considered part of the process weight. (5-1-94)
80. Process Weight Rate. The rate established as follows: (5-1-94)
- a. For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof; (5-1-94)
  - b. For cyclical or batch source operations, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of this definition, the interpretation that results in the minimum value for allowable emission shall apply. (5-1-94)
81. Radionuclide. A type of atom which spontaneously undergoes radioactive decay. (5-1-94)
82. Responsible Official. One of the following: (5-1-94)
- a. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either: (5-1-94)
    - i. The facilities employ more than two hundred fifty (250) persons or have gross annual sales or expenditures exceeding twenty-five million dollars (\$25) (in second quarter 1980 dollars); or (5-1-94)
    - ii. The delegation of authority to such representative is approved in advance by the Department. (5-1-94)
  - b. For a partnership or sole proprietorship: a general partner or the proprietor, respectively. (5-1-94)
  - c. For a municipality, State, Federal, or other public agency: either a principal executive officer or

ranking elected official. For the purposes of Section 122, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of EPA). (5-1-94)

d. For Phase II sources: (5-1-94)

i. The designated representative in so far as actions, standards, requirements, or prohibitions under 42 U.S.C. Sections 7651 through 7651o or the regulations promulgated thereunder are concerned; and (5-1-94)

ii. The designated representative for any other purposes under 40 CFR Part 70. (5-1-94)

83. Safety Measure. Any shutdown (and related startup) or bypass of control equipment, process equipment or normal processes undertaken to prevent imminent injury or death to employees or severe damage to equipment which may cause excessive emissions where such measure is not necessitated by negligence or improper maintenance. (3-20-97)

84. Salvage Operation. Any source consisting of any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers, or drums, and specifically including automobile graveyards and junkyards. (5-1-94)

85. Scheduled Maintenance. Planned upkeep, repair activities and preventative maintenance on any air pollution control equipment or emissions unit, including process equipment, and including shutdown and startup of such equipment. (3-20-97)

86. Secondary Ambient Air Quality Standard. That ambient air quality which is requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of air pollutants in the ambient air. (5-1-94)

87. Shutdown. The normal and customary time period required to cease operations of air pollution control equipment or an emissions unit beginning with the initiation of procedures to terminate normal operation and continuing until the termination is completed. (5-1-94)

88. Significant. A rate of air pollutant emissions that would equal or exceed any of the following: (5-1-94)

a. Air pollutant emissions and rate: (5-1-94)

i. Carbon monoxide, one hundred (100) tons per year; (5-1-94)

ii. Nitrogen oxides, forty (40) tons per year; (5-1-94)

iii. Sulfur dioxide, forty (40) tons per year; (5-1-94)

iv. Particulate matter, twenty-five (25) tons per year; (5-1-94)

v. Ozone, forty (40) tons per year of volatile organic compounds as a measure of ozone; (5-1-94)

vi. Lead, six-tenths (0.6) of a ton per year; (5-1-94)

vii. Asbestos, seven-thousandths (0.007) of a ton per year; (5-1-94)

viii. Beryllium, four ten-thousandths (0.0004) of a ton per year; (5-1-94)

ix. Mercury, one-tenth (0.1) of a ton per year; (5-1-94)

x. Vinyl chloride, one (1) ton per year; (5-1-94)

- xi. Fluorides, three (3) tons per year; (5-1-94)
  - xii. Sulfuric acid mist, seven (7) tons per year; (5-1-94)
  - xiii. Hydrogen sulfide (H<sub>2</sub>S), ten (10) tons per year; (5-1-94)
  - xiv. Total reduced sulfur (including H<sub>2</sub>S), ten (10) tons per year; (5-1-94)
  - xv. Reduced sulfur compounds (including H<sub>2</sub>S), ten (10) tons per year; (5-1-94)
  - xvi. PM-10, fifteen (15) tons per year; (5-1-94)
  - xvii. Municipal waste combustor organics (measured as total tetra - through octa-chlorinated dibenzo-p-dioxins and dibenzofurans), thirty-five ten-millionths (0.0000035) tons per year; (5-1-94)
  - xviii. Municipal waste combustor metals (measured as particulate matter), 15 tons per year; (5-1-94)
  - xix. Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride), forty (40) tons per year; (5-1-94)
  - xx. Radionuclides, a quantity of emissions, from source categories regulated by 40 CFR Part 61, Subpart H, that have been determined in accordance with 40 CFR Part 61, Appendix D and by Department approved methods, that would cause any member of the public to receive an annual effective dose equivalent of at least zero point one (0.1) mrem per year, if total facility-wide emissions contribute an effective dose equivalent of less than three (3) mrem per year; or any radionuclide emission rate, if total facility-wide radionuclide emissions contribute an effective dose equivalent of greater than or equal to three (3) mrem per year; (5-1-95)
- b. In reference to a net emissions increase or the potential of a source or facility to emit an air pollutant not listed in (a) above and not a toxic air pollutant, any emission rate; or (5-1-94)
- c. For a major facility or major modification which would be constructed within ten (10) kilometers of a Class I area, the emissions rate which would increase the ambient concentration of an emitted air pollutant in the Class I area by one (1) microgram per cubic meter, twenty-four (24) hour average, or more. (5-1-94)
89. Significant Contribution. Any increase in ambient concentrations which would exceed the following: (5-1-94)
- a. Sulfur dioxide: (5-1-94)
    - i. One (1.0) microgram per cubic meter, annual average; (5-1-94)
    - ii. Five (5) micrograms per cubic meter, twenty-four (24) hour average; (5-1-94)
    - iii. Twenty-five (25) micrograms per cubic meter, three (3) hour average; (5-1-94)
  - b. Nitrogen dioxide, one (1.0) microgram per cubic meter, annual average; (5-1-94)
  - c. Carbon monoxide: (5-1-94)
    - i. One-half (0.5) milligrams per cubic meter, eight (8) hour average; (5-1-94)
    - ii. Two (2) milligrams per cubic meter, one (1) hour average; (5-1-94)
  - d. PM-10: (5-1-94)
    - i. One (1.0) microgram per cubic meter, annual average; (5-1-94)

- ii. Five (5.0) micrograms per cubic meter, twenty-four (24) hour average. (5-1-94)
90. Small Fire. A fire in which the material to be burned is not more than four (4) feet in diameter nor more than three (3) feet high. (5-1-94)
91. Smoke. Small gas-borne particles resulting from incomplete combustion, consisting predominantly, but not exclusively, of carbon and other combustible material. (5-1-94)
92. Smoke Management Plan. A document issued by the Director to implement Sections 606 through 616, Categories of Allowable Burning. (5-1-94)
93. Smoke Management Program. A program whereby meteorological information, fuel conditions, fire behavior, smoke movement and atmospheric dispersal conditions are used as a basis for scheduling the location, amount and timing of open burning operations so as to minimize the impact of such burning on identified smoke sensitive areas. (5-1-94)
94. Source. A stationary source. (5-1-94)
95. Source Operation. The last operation preceding the emission of air pollutants, when this operation: (5-1-94)
- a. Results in the separation of the air pollutants from the process materials or in the conversion of the process materials into air pollutants, as in the case of fuel combustion; and (5-1-94)
- b. Is not an air cleaning device. (5-1-94)
96. Stack. Any point in a source arranged to conduct emissions to the ambient air, including a chimney, flue, conduit, or duct but not including flares. (5-1-94)
97. Standard Conditions. Except as specified in Section 576.02 for ambient air quality standards, a dry gas temperature of 20C (68F) and a gas pressure of 760 millimeters of mercury (14.7 pounds per square inch) absolute. (5-1-94)
98. Startup. The normal and customary time period required to bring air pollution control equipment or an emissions unit, including process equipment, from a nonoperational status into normal operation. (5-1-94)
99. Stationary Source. Any building, structure, emissions unit, or installation which emits or may emit any air pollutant. (5-1-94)
100. Tier I Source. Any of the following: (5-1-94)
- a. Any source located at any major facility; (5-1-94)
- b. Any source, including an area source, subject to a standard, limitation, or other requirement under 42 U.S.C. Section 7411 or 40 CFR Part 60; (5-1-94)
- c. Any source, including an area source, subject to a standard or other requirement under 42 U.S.C. Section 7412, 40 CFR Part 61 or 40 CFR Part 63, except that a source is not required to obtain a permit solely because it is subject to requirements under 42 U.S.C. Section 7412(r); (5-1-94)
- d. Any Phase II source; and (5-1-94)
- e. Any source in a source category designated by the Department. (5-1-94)
101. Time Intervals. Where applicable, time intervals are defined as follows: (5-1-94)

- a. "Annual" means calendar year; (5-1-94)
- b. "Year" means calendar year; (5-1-94)
- c. "Month" means calendar month; (5-1-94)
- d. "Week" means calendar week; (5-1-94)
- e. "Twenty-four (24) hour concentration" means twenty-four (24) hour average concentration starting at midnight and continuing until the following midnight; (5-1-94)
- f. "Eight (8) hour concentration" means running eight (8) hour average concentration starting at each clock hour; (5-1-94)
- g. "Three (3) hour concentration" means running three (3) hour average concentration starting at each clock hour; and (5-1-94)
- h. "One (1) hour concentration" means one (1) hour average concentration starting at each clock hour. (5-1-94)
102. Toxic Air Pollutant. An air pollutant that has been determined by the Department to be by its nature, toxic to human or animal life or vegetation and listed in Section 585 or 586. (5-1-94)
103. Toxic Air Pollutant Carcinogenic Increments. Those ambient air quality increments based on the probability of developing excess cancers over a seventy (70) year lifetime exposure to one microgram per cubic meter (1 ug/m<sup>3</sup>) of a given carcinogen and expressed in terms of a screening emission level or an acceptable ambient concentration for a carcinogenic toxic air pollutant. They are listed in Section 586. (5-1-94)
104. Toxic Air Pollutant Non-carcinogenic Increments. Those ambient air quality increments based on occupational exposure limits for airborne toxic chemicals expressed in terms of a screening emission level or an acceptable ambient concentration for a non-carcinogenic toxic air pollutant. They are listed in Section 585. (5-1-94)
105. Toxic Substance. Any air pollutant that is determined by the Department to be by its nature, toxic to human or animal life or vegetation. (5-1-94)
106. Trade Waste. Any solid, liquid or gaseous material resulting from the construction or demolition of any structure, or the operation of any business, trade or industry including, but not limited to, wood product industry waste such as sawdust, bark, peelings, chips, shavings and cull wood. (5-1-94)
107. TRS (Total Reduced Sulfur). Hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide and any other organic sulfide present. (5-1-94)
108. Unclassifiable Area. An area which, because of a lack of adequate data, is unable to be classified pursuant to 42 U.S.C. Section 7407(d) as either an attainment or a nonattainment area. (5-1-94)
109. Uncontrolled Emission. An emission which has not been treated by control equipment. (5-1-94)
110. Upset. An unplanned and unforeseeable disruption in the normal operations of any air pollution control equipment or emissions unit, including process equipment, which may cause excess emissions where such disruption is not intentional or the result of negligence or improper maintenance. (5-1-94)
111. Wigwam Burner. Wood waste burning devices commonly called teepee burners, silos, truncated cones, and other such burners commonly used by the wood product industry for the disposal by burning of wood wastes. (5-1-94)
112. Wood Stove Curtailment Advisory. An air pollution alert issued through local authorities and/or the Department to limit wood stove emissions during air pollution episodes. (5-1-94)



**007. DEFINITIONS FOR THE PURPOSES OF SECTIONS 200 THROUGH 225 AND 400 THROUGH 461.**

01. Adverse Effect on Visibility. Impairment of visibility in a Class I area which the Department determines to be unacceptable. This determination is made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and times of visibility impairment, and how these factors correlate with times of visitor use of the area and the frequency and times of naturally occurring phenomena that reduce visibility. (5-1-94)

02. Agricultural Activities and Services. For the purposes of Subsection 223.03.f., the usual and customary activities of cultivating the soil, producing crops and raising livestock for use and consumption. Agricultural activities and services do not include manufacturing, bulk storage, handling for resale or the formulation of any agricultural chemical listed in Sections 585 or 586. (5-1-94)

03. Allowable Emissions. The emission rate, at maximum rated capacity (unless the operating rate, or hours of operation, or both are restricted by enforceable limits), allowed by current state rules, federal regulations or by permit condition, whichever is most stringent. (5-1-94)

04. Innovative Control Technology. Any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice, or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental effects. (5-1-94)

05. Integral Vista. A view perceived from within the mandatory federal Class I area of a specific landmark or panorama located outside the boundary of the mandatory federal Class I area. Integral vistas are identified by the responsible federal land manager in accordance with criteria adopted pursuant to 40 CFR Part 51.304(a). (5-1-94)

06. Mandatory Federal Class I Area. Any area designated under 42 U.S.C. Section 7472(a) as Class I and never to be redesignated. (5-1-94)

07. Net Emissions Increase. Any increase in actual emissions from a particular modification plus any other increases and creditable decreases in actual emissions at the facility that are contemporary with the particular modification, where: (5-1-94)

a. An increase or decrease in actual emissions is contemporary with a particular modification if it occurs within ~~ten (10)~~ five (5) years prior to the date that the new or modified emissions unit(s) becomes operational, except that ~~decreases which occurred prior to one (1) year before the date of application for a particular modification must have been approved by the Department pursuant to Section 461~~ creditable decreases may also include emission reduction credits obtained and used in accordance with Sections 460 or 461. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred and eighty (180) days; (5-1-94)(    )

b. A decrease in actual emissions is creditable only if it satisfies the requirements for emission reduction credits (Section 460) and has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular modification. (5-1-94)

c. The increase in toxic air pollutant emissions from an already operating or permitted source is not included in the calculation of the net emissions increase for a proposed new source or modification if: (5-1-95)

i. The already operating or permitted source commenced construction or modification prior to July 1, 1995; or (5-1-95)

ii. The uncontrolled emission rate from the already operating or permitted source is ten per cent (10%) or less of the applicable screening emissions level listed in Section 585 or 586; or (6-30-95)

iii. The already operating or permitted source is an environmental remediation source subject to or

regulated by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901-6992k) and Idaho Rules and Standards for Hazardous Waste (IDAPA 16.01.05.000 et seq.) or the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 6901-6992k) or a consent order. (6-30-95)

08. Pilot Plant. A stationary source located at least 1/4 mile from any sensitive receptor that functions to test processing, mechanical, or pollution control equipment to determine full-scale feasibility and which does not produce products that are offered for sale except in developmental quantities. (5-1-94)

09. Reasonable Further Progress (RFP). Annual incremental reductions in emissions of the applicable air pollutant as identified in the SIP which are sufficient to provide for attainment of the applicable ambient air quality standard by the required date. (5-1-94)

10. Secondary Emissions. Emissions which would occur as a result of the construction, modification, or operation of a stationary source or facility, but do not come from the stationary source or facility itself. Secondary emissions must be specific, well defined, quantifiable, and affect the same general area as the stationary source, facility, or modification which causes the secondary emissions. Secondary emissions include emissions from trains or marine vessels at the stationary source or facility and from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the primary stationary source, facility or modification. Secondary emissions do not include any emissions which come directly from a mobile source regulated under 42 U.S.C. Sections 7521 through 7590. (5-1-94)

11. Sensitive Receptor. Any residence, building or location occupied or frequented by persons who, due to age, infirmity or other health based criteria, may be more susceptible to the deleterious effects of a toxic air pollutant than the general population including, but not limited to, elementary and secondary schools, day care centers, playgrounds and parks, hospitals, clinics and nursing homes. (5-1-94)

12. Short Term Source. Any new stationary source or modification to an existing source, with an operational life no greater than five (5) years from the inception of any operations to the cessation of actual operations. (5-1-94)

13. Toxic Air Pollutant Reasonably Available Control Technology (T-RACT). An emission standard based on the lowest emission of toxic air pollutants that a particular source is capable of meeting by the application of control technology that is reasonably available, as determined by the Department, considering technological and economic feasibility. If control technology is not feasible, the emission standard may be based on the application of a design, equipment, work practice or operational requirement, or combination thereof. (5-1-94)

14. Visibility Impairment. Any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under naturally occurring phenomena that reduced visibility. (5-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**201. PERMIT TO CONSTRUCT REQUIRED.**

No owner or operator may commence construction or modification of any stationary source, facility, major facility, or major modification without first obtaining a permit to construct from the Department which satisfies the requirements of Sections 200 through 225 unless the source is exempted in any of Sections 220 through 225, or the owner or operator complies with Section 213 and obtains the required permit to construct. (5-1-94)( )

**202. APPLICATION PROCEDURES.**

Application for a permit to construct must be made using forms furnished by the Department, or by other means prescribed by the Department. The application shall be certified by the responsible official in accordance with Section 123 and shall be accompanied by all information necessary to perform any analysis or make any determination required under Sections 200 through 225. (5-1-94)

01. Required Information. Depending upon the proposed size and location of the new or modified

stationary source or facility, the application for a permit to construct shall include all of the information required by one or more of the following provisions: (5-1-94)

- a. For any new or modified stationary source or facility: (5-1-94)
  - i. Site information, plans, descriptions, specifications, and drawings showing the design of the stationary source, facility, or modification, the nature and amount of emissions (including secondary emissions), and the manner in which it will be operated and controlled. (5-1-94)
  - ii. A schedule for construction of the stationary source, facility, or modification. (5-1-94)
- b. For any new major facility or major modification in a nonattainment area which would be major for the nonattainment air pollutant(s): (5-1-94)
  - i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the lowest achievable emission rate would be applied. (5-1-94)
  - ii. A description of the emission offsets proposed for the new major facility or major modification, including information on the stationary sources or facilities providing the offsets, emission estimates, and other information necessary to determine that a net air quality benefit would result. (5-1-94)
  - iii. Certification that all other facilities in Idaho, owned or operated by (or under common ownership of) the proposed new major facility or major modification, are in compliance with all local, state or federal requirements or are on a schedule for compliance with such. (5-1-94)
  - iv. An analysis of alternative sites, sizes, production processes, and environmental control techniques which demonstrates that the benefits of the proposed major facility or major modification significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification. (5-1-94)
  - v. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would impact (including the monitoring of visibility in any Class I area near the new major facility or major modification, if requested by the Department), except for those new major facilities and major modifications exempted by Subsection 204.04. (5-1-94)
- c. For any new major facility or major modification in an attainment or unclassifiable area for any air pollutant, except for those new major facilities and major modifications exempted under Subsections 205.04 a. and 205.04 b. (5-1-94)(\_\_\_\_)
  - i. A description of the system of continuous emission control proposed for the new major facility or major modification, emission estimates, and other information as necessary to determine that the best available control technology would be applied. (5-1-94)
  - ii. An analysis of the effect on air quality by the new major facility or major modification, including meteorological and topographical data necessary to estimate such effects. (5-1-94)
  - iii. An analysis of the effect on air quality projected for the area as a result of general commercial, residential, industrial, and other growth associated with the new major facility or major modification. (5-1-94)
  - iv. A description of the nature, extent, and air quality effects of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the new major facility or major modification would affect. (5-1-94)
  - v. An analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the new major facility or major modification and general commercial, residential, industrial, and other growth associated with establishment of the new major facility or major modification. The owner or operator need not provide an

analysis of the impact on vegetation or soils having no significant commercial or recreational value. (5-1-94)

vi. An analysis of the impairment to visibility of any federal Class I area, Class I area designated by the Department, or integral vista of any mandatory federal Class I area that the new major facility or major modification would affect. (5-1-94)

vii. An analysis of the existing ambient air quality in the area that the new major facility or major modification would affect for each air pollutant that a new major facility would emit in significant amounts or for which a major modification would result in a significant net emissions increase. (5-1-94)

viii. Ambient analyses as specified in Subsections 202.01c.vii., ix., x., and xii, may not be required if the projected increases in ambient concentrations or existing ambient concentrations of a particular air pollutant in any area that the new major facility or major modification would affect are less than the following amounts, or the air pollutant is not listed herein: carbon monoxide - five hundred and seventy-five (575) micrograms per cubic meter, eight (8) hour average; nitrogen dioxide - fourteen (14) micrograms per cubic meter, annual average; PM-10 - ten (10) micrograms per cubic meter, twenty-four (24) hour average; sulfur dioxide - thirteen (13) micrograms per cubic meter, twenty-four (24) hour average; ozone - any net increase of one hundred (100) tons per year or more of volatile organic compounds, as a measure of ozone; lead - one-tenth (0.1) of a microgram per cubic meter, calendar quarterly average; mercury - twenty-five hundredths (0.25) of a microgram per cubic meter, twenty-four (24) hour average; beryllium - one-thousandth (0.001) of a microgram per cubic meter, twenty-four (24) hour average; fluorides - twenty-five hundredths (0.25) of a microgram per cubic meter, twenty-four (24) hour average; vinyl chloride - fifteen (15) micrograms per cubic meter, twenty-four (24) hour average; hydrogen sulfide - two-tenths (0.2) of a microgram per cubic meter, one (1) hour average. (7-1-97)

ix. For any air pollutant which has an ambient air quality standard, the analysis shall include continuous air monitoring data, gathered over the year preceding the submittal of the application, unless the Department determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one (1) year, but not less than four (4) months, which is adequate for determining whether the emissions of that air pollutant would cause or contribute to a violation of the ambient air quality standard or any PSD increment. (5-1-94)

x. For any air pollutant which does not have an ambient air quality standard, the analysis shall contain such air quality monitoring data that the Department determines is necessary to assess ambient air quality for that air pollutant in any area that the emissions of that air pollutant would affect. (5-1-94)

xi. If requested by the Department, monitoring of visibility in any Class I area the proposed new major facility or major modification would affect. (5-1-94)

xii. Operation of monitoring stations shall meet the requirements of Appendix B to 40 CFR Part 58 or such other requirements as extensive as those set forth in Appendix B as may be approved by the Department. (5-1-94)

02. Estimates of Ambient Concentrations. All estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in the U.S. Environmental Protection Agency's "Guideline on Air Quality Models (Revised 2-92)" (EPA 450/2-78-027R, July 1986), including Supplement A and B (July 1987). (5-1-94)

a. Where an air quality model specified in the "Guideline on Air Quality Models (Revised)", including "Supplement A" and "Supplement B" is inappropriate, the model may be modified or another model substituted, subject to written approval of the Administrator of the U.S. Environmental Protection Agency and public comment pursuant to Subsection 209.01.c.; provided that modifications and substitutions of models used for toxic air pollutants will be reviewed by the Department. (5-1-94)

b. Methods like those outlined in the U.S. Environmental Protection Agency's "Interim Procedures for Evaluating Air Quality Models (Revised)" (September 1984) should be used to determine the comparability of air quality models. (5-1-94)

03. Additional Information. Any additional information, plans, specifications, evidence or documents that the Department may require to make the determinations required under Sections 200 through 225 shall be furnished upon request. (5-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**205. PERMIT REQUIREMENTS FOR NEW MAJOR FACILITIES OR MAJOR MODIFICATIONS IN ATTAINMENT OR UNCLASSIFIABLE AREAS.**

01. Requirements for Issuance. No permit to construct shall be granted for a new major facility or major modification which is proposed for location in an attainment or unclassifiable area for any air pollutant, ~~except as specifically exempted in Sections 220 through 224~~ unless the applicant shows to the satisfaction of the Department that: (5-1-94)( )

a. The new major facility or major modification would use the best available control technology (BACT): (5-1-94)

i. For each air pollutant for which a new major facility would have significant allowable emissions; and (5-1-94)

ii. At each new or modified emissions unit which has a net emissions increase of each air pollutant for which a major modification has a significant net emissions increase. (5-1-94)

b. The allowable emission increases from the new major facility or major modification, in conjunction with all other applicable emissions increases or reductions, including secondary emissions, would not: (5-1-94)

i. Cause or significantly contribute to violations of any ambient air quality standard; and (5-1-94)

ii. Cause or contribute to violations of any applicable prevention of significant deterioration (PSD) increment; (5-1-94)

c. The allowable emission increases from the new major facility or major modification would not have an adverse effect on the air quality related values, including visibility, of any federal Class I area or Class I area designated by the Department, and any effect on visibility of any integral vista of a mandatory federal Class I area would be consistent with making reasonable progress toward remedying existing and preventing future visibility impairment. However, any integral vista which the Federal Land Manager has not identified at least six (6) months prior to the submittal of a complete application, or which the Department determines was not identified in accordance with the required identification criteria, may be exempted by the Department. (5-1-94)

02. Phased Construction Projects. For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at least eighteen (18) months prior to commencement of each independent phase of the project. (5-1-94)

03. Innovative Control Technology. If requested by the owner or operator of the new major facility or major modification, the Department may, with the consent of the Governor of any other affected state, approve a system of innovative control technology. (5-1-94)

a. A proposed system of innovative control technology may be approved if: (5-1-94)

i. The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function; (5-1-94)

ii. The owner or operator agrees to achieve a level of continuous emissions control equivalent to that which would have been required for BACT by a date specified by the Department, but not later than four (4) years

from the time of start-up or seven (7) years from permit issuance; (5-1-94)

iii. The allowable emissions for the facility employing the system of innovative control technology satisfy all other applicable requirements; (5-1-94)

iv. Prior to the date established pursuant to Section 205.03.a.ii., the new major facility or major modification would not cause or significantly contribute to any violation of an ambient air quality standard, impact any Class I area, or impact any area where a PSD increment is known to be violated. (5-1-94)

b. The Department shall withdraw its approval to employ a system of innovative control technology if: (5-1-94)

i. The proposed system fails by the specified date to achieve the required continuous emission control; (5-1-94)

ii. The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or (5-1-94)

iii. The Department decides that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety. (5-1-94)

c. If the system of innovative control technology fails to meet the required level of continuous emission control or if approval for the system is withdrawn by the Department, the Department may allow the new major facility or major modification up to three (3) years from the date of withdrawal to meet the requirement for the application of BACT through the use of a demonstrated system of control. (5-1-94)

04. Exemptions. (5-1-94)

a. New major facilities, or major modifications to major facilities, which have actual or potential emissions of less than two-hundred fifty (250) tons per year of any air pollutant and which are not designated facilities are exempt from complying with the conditions of Subsections 205.01.a., 205.01.b.ii., and 205.01.c., for obtaining a permit to construct. (5-1-94)

b. Temporary emissions (one (1) year or less in duration unless otherwise approved by the Department) from a new major facility or major modification that would not impact a Class I area or area where an applicable PSD increment is known to be violated are exempt from complying with the conditions of Subsections 205.01.b. and 205.01.c. for obtaining a permit to construct. (5-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**209. PROCEDURE FOR ISSUING PERMITS.**

01. General Procedures. General procedures for permits to construct. (5-1-94)

a. Within thirty (30) days after receipt of the application for a permit to construct, the Department shall determine whether the application is complete or whether more information must be submitted and shall notify the applicant of its findings in writing. (5-1-94)

b. Within sixty (60) days after the application is determined to be complete the Department shall: (5-1-94)

i. Notify the applicant in writing of the approval, conditional approval, or denial of the application if an opportunity for public comment is not required pursuant to Section 209.01.c. The Department shall set forth reasons for any denial; or (5-1-94)

- ii. Issue a proposed approval, proposed conditional approval, or proposed denial. (5-1-94)
- c. An opportunity for public comment shall be provided on an application for any new major facility or major modification, any new facility or modification which would cause a significant contribution to existing ambient concentrations or affect any Class I area, any application which uses fluid modeling or a field study to establish a good engineering practice stack height pursuant to Sections 510 through 516, any application which uses an interpollutant trade pursuant to Section 210.17, and any other application which the Director determines an opportunity for public comment should be provided. (6-30-95)
- i. The Department's proposed action, together with the information submitted by the applicant and the Department's analysis of the information, shall be made available to the public in at least one (1) location in the region in which the stationary source or facility is to be located. (5-1-94)
- ii. The availability of such materials shall be made known by notice published in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. (5-1-94)
- iii. A copy of such notice shall be sent to the applicant and to appropriate federal, state and local agencies. (5-1-94)
- iv. There shall be a thirty (30) day period after initial publication for comment on the Department's proposed action, such comment to be made in writing to the Department. (5-1-94)
- v. After consideration of comments and any additional information submitted during the comment period, and within forty-five (45) days after initial publication of the notice, or notice of public hearing if one is requested under Subsections 209.02.b.iv. or 209.02.a.ii., unless the Director deems that additional time is required to evaluate comments and information received, the Department shall notify the applicant in writing of approval, conditional approval, or denial of the permit. The Department shall set forth the reasons for any denial. (5-1-94)
- vi. All comments and additional information received during the comment period, together with the Department's final determination, shall be made available to the public at the same location as the preliminary determination. (5-1-94)
- d. A copy of each permit will be sent to the U.S. Environmental Protection Agency. (5-1-94)
02. Additional Procedures for Specified Sources. (5-1-94)
- a. For any new major facility or major modification in an attainment or unclassifiable area for any air pollutant, except for those new major facilities and major modifications exempted under Subsections 205.04.a. and 205.04.b. (5-1-94)(\_\_\_\_)
- i. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the degree of increment consumption that is expected from the new major facility or major modification; and (5-1-94)
- ii. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effects of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (5-1-94)(\_\_\_\_)
- b. For any new major facility or major modification which would affect a federal Class I area or an integral vista of a mandatory federal Class I area. (5-1-94)
- i. If the Department is notified of the intent to apply for a permit to construct, it shall notify the appropriate Federal Land Manager within thirty (30) days; (5-1-94)

ii. A copy of the permit application and all relevant information, including an analysis of the anticipated effects on visibility in any federal Class I area, shall be sent to the Administrator of the U.S. Environmental Protection Agency and the Federal Land Manager within thirty (30) days of receipt of a complete application and at least sixty (60) days prior to any public hearing on the application; (5-1-94)

iii. Notice of every action related to the consideration of the permit shall be sent to the Administrator of the U.S. Environmental Protection Agency; (5-1-94)

iv. The public notice issued pursuant to Subsection 209.01.c.ii. shall indicate the opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality effect of the new major facility or major modification, alternatives to it, the control technology required, and other appropriate considerations. All requests for public hearings during a comment period with an opportunity for a hearing must be requested in writing by interested persons within fourteen (14) days of the publication of the legal notice of the proposed permit to construct or within fourteen (14) days prior to the end of the comment period, whichever is later. (5-1-94)( )

v. The notice of public hearing, if required, shall explain any differences between the Department's preliminary determination and any visibility analysis performed by the Federal Land Manager and provided to the Department within thirty (30) days of the notification pursuant to Subsection 209.02.b.ii. (5-1-94)

vi. Upon a sufficient showing by the Federal Land Manager that a proposed new major facility or major modification will have an adverse impact upon the air quality related values (including visibility) of any federal mandatory Class I area, the Director may deny the application notwithstanding the fact that the concentrations of air pollutants would not exceed the maximum allowable increases for a Class I area. (5-1-94)

03. Establishing a Good Engineering Stack Height. The Department will notify the public of the availability of any fluid model or field study used to establish a good engineering practice stack height and provide an opportunity for a public hearing before issuing a permit or setting an emission standard based thereon. (5-1-94)

04. Revisions of Permits to Construct. The Director may approve a revision of any permit to construct provided the stationary source or facility continues to meet all applicable requirements of Sections 200 through 225. Revised permits will be issued pursuant to procedures for issuing permits (Section 209), except that the requirements of Subsections 209.01.c., 209.02.a., 209.02.b. and 209.04, shall only apply if the permit revision results in an increase in allowable emissions or if deemed appropriate by the Director. (5-1-94)

05. Permit to Construct Procedures for Tier I Sources. For Tier I sources that require a permit to construct, the owner or operator shall either: (5-1-94)

a. Submit only the information required by Sections 200 through 225 for a permit to construct, in which case: (5-1-94)

i. A permit to construct or denial will be issued in accordance with Subsections 209.01.a. and 209.01.b. (5-1-94)

ii. The owner or operator may construct the source after permit to construct issuance. (5-1-94)

iii. Within twelve (12) months after commencing operation, the owner or operator shall submit an application for a Tier I operating permit or a request for a substantive permit modification, whichever is appropriate. (5-1-94)

iv. The application or substantive permit modification request shall be processed in accordance with timelines: Subsections 361 and 367.02 through 367.05. (5-1-94)

v. The final Tier I operating permit action shall supersede the permit to construct. (5-1-94)

b. Submit all information required by Sections 200 through 299 and 300 through 387 for a permit to



- construct and a Tier I operating permit, in which case: (5-1-94)
- i. Completeness of the application shall be determined within thirty (30) days. (5-1-94)
  - ii. The Department shall prepare a proposed permit to construct or denial, in accordance with Sections 200 through 299 and 300 through 387, within sixty (60) days. (3-20-97)
  - iii. The Department shall provide for public comment in accordance with Section 364 on the proposed permit to construct or denial. (5-1-94)
  - iv. Except as otherwise provided by these rules, the Department shall prepare a final permit to construct or denial within fifteen (15) days after the close of the public comment period. (5-1-94)
  - v. The final permit to construct will be sent to EPA as the proposed Tier I operating permit for review in accordance with Section 366. (5-1-94)
  - vi. The permittee shall request that the permit to construct requirements be incorporated into the Tier I operating permit through an administrative amendment in accordance with Section 384. (5-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**213. PRE-PERMIT CONSTRUCTION.**

This section describes how owners or operators may commence construction or modification of certain stationary sources before obtaining the required permit to construct. Pre-permit construction approval is available for non-major sources and non-major modifications and for new sources or modifications proposed in accordance with Subsection 213.01.d. Pre-permit construction is not available for any new source or modification that: uses emissions netting to stay below major source levels; uses optional offsets pursuant to Section 206; or would have an adverse effect on the air quality related values of any Class I area. ( )

01. Pre-Permit Construction Eligibility. Owners or operators may ask the Department for the ability to commence construction of qualifying sources under Section 213 before receiving the required permit to construct. To obtain the Department's pre-permit construction approval, the owner or operator shall satisfy the following requirements: ( )

a. The owner or operator shall apply for a permit to construct in accordance with Subsection 202.01.a., and Subsections 202.02, and 202.03 of this chapter. ( )

b. The owner or operator shall consult with Department representatives prior to submitting a pre-permit construction approval application. ( )

c. The pre-permit construction approval application must contain, but not be limited to: a copy of the notice referenced in Subsection 213.02; proof of eligibility; process description(s); equipment list(s); proposed emission limits and modeled ambient concentrations for all air pollutants subject to regulation under this chapter, such that they demonstrate compliance with all applicable air quality rules and regulations. The models shall be conducted in accordance with written Department approved protocol and submitted with sufficient detail so that modeling can be duplicated by the Department. ( )

d. Owners or operators seeking limitations on a source's potential to emit such that permitted emissions will be either below major source levels or below a significant increase must describe in detail in the pre-permit construction application the proposed restrictions and certify in accordance with Section 123 that they will comply with the restrictions, including any applicable monitoring and reporting requirements. ( )

02. Permit to Construct Procedures for Pre-Permit Construction. ( )

a. Within ten (10) days after the submittal of the application with an accompanying letter requesting the ability to construct before obtaining the required permit to construct, the owner or operator shall hold an informational meeting in at least one (1) location in the region in which the stationary source or facility is to be located. The informational meeting shall be made known by notice published ten (10) days before the meeting in a newspaper of general circulation in the county(ies) in which the stationary source or facility is to be located. A copy of such notice shall be included in the application. ( )

b. Within fifteen (15) days after the receipt of the application for a permit to construct accompanied by a letter requesting the ability to construct before obtaining the required permit to construct, the Department shall notify the owner or operator in writing of pre-permit construction approval or denial. ( )

c. Upon receipt of the pre-permit construction approval letter issued by the Department, the owner or operator may begin construction at their own risk. Upon issuance of the pre-permit construction approval letter, any and all potential to emit limitations addressed in the pre-permit construction application pursuant to Subsection 213.01.d. shall become enforceable. Those emissions units subject to permit to construct requirements in accordance with Section 200 shall not emit any air pollutant subject to regulation until issued a permit pursuant to Section 209. ( )

d. If the application is determined incomplete or the permit to construct is denied, the Department shall issue an incompleteness or denial letter pursuant to Section 209. If the Department denies the permit to construct, then the owner or operator may have violated Section 201 on the date it commenced construction as defined in Section 006. The owner or operator shall not contest the final permit to construct decision based on the fact that they have already begun construction. ( )

**2134. -- 219. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**787. DESIGN STANDARDS.**

~~No person shall allow, suffer, cause, or permit any new domestic, commercial, industrial or municipal incinerator to be installed or operated unless the installation and operation complies with the provisions and requirements of the "Multiple Chamber Incinerator Design Standards for Los Angeles County" or unless such incinerator is found by the Department to be equally effective for the purpose of air pollution control.~~ (5-1-94)

**788. EXCEPTIONS.**

Sections 785 through and 7876 do not apply to wigwam burners. (5-1-94)( )

**7898. -- 794. (RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.01.09 - IDAHO RADIATION CONTROL RULES**

**DOCKET NO. 16-0109-9701**

**NOTICE OF PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized by Title 39, Chapters 1 and 30, Idaho Code. In this rulemaking, the Idaho Department of Health and Welfare, Division of Environmental Quality (DEQ) proposes to repeal the Idaho Radiation Control Rules, IDAPA 16.01.09, as described in the descriptive summary below.

**PUBLIC HEARING SCHEDULE:** No hearings have been scheduled. Pursuant to Section 67-5222(2), Idaho Code, a public hearing will be held if requested in writing by twenty-five (25) persons, a political subdivision, or an agency. Written requests for hearing must be received by the undersigned on or before July 16, 1997. If no such written request is received, a public hearing will not be held.

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

The Idaho Radiation Control Rules are made up of provisions relating to Idaho's Agreement State status and provisions implementing an X-ray and mammography unit inspection program. As described below, this proposed rulemaking repeals the rules in whole, achieving two purposes with regard to the two types of provisions which make up this title of DEQ rules:

1. Repeal of Agreement State Provisions. From 1968 to 1991, the Department of Health and Welfare had the authority to license and regulate by-product, source and special nuclear material not sufficient to form a critical mass. The authority was delegated to the State by the U.S. Nuclear Regulatory Commission (NRC) and its predecessor, making Idaho an "Agreement State." Appropriate statutory language was included in Title 39, Chapter 30, Idaho Code, and the Idaho Radiation Control Rules, IDAPA 16.01.09. Based on a lack of funding, on April 26, 1991 the Governor gave up Idaho's Agreement State status and returned regulatory control back to the NRC. This proposed rulemaking removes the relevant, unenforceable parts of the Idaho Radiation Control Rules from the Idaho Administrative Code.

2. Transfer of Provisions from DEQ to DOH. In 1991, the authority over the inspection of X-ray and mammography units was transferred from DEQ to the Division of Health (DOH). Both divisions are within the Idaho Department of Health and Welfare. The relevant sections of the Idaho Radiation Control Rules, which in their current form are in need of revision, were never transferred to the title of the Idaho Administrative Code belonging to DOH. Instead, the rules remained within that part of the Code assigned to DEQ. The proposed rulemaking will repeal the relevant provisions from DEQ's title. At the same time, DOH is proposing a rulemaking that will add appropriate DOH rules to allow that division to continue to run its X-ray and mammography unit inspection program.

The retention of the Idaho Radiation Control Rules as part of DEQ's rule title is confusing to the public and costly to DEQ. This proposal to repeal the Idaho Radiation Control Rules from DEQ's rule title removes those parts of the Idaho Radiation Control Rules relating to Idaho's Agreement State status while, in conjunction with a parallel rulemaking proposed by DOH, effectively transferring to DOH that part of the Idaho Radiation Control Rules relating to the X-ray and mammography inspection program run by DOH.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rulemaking, contact Brian Monson at (208) 373-0502.

Anyone can submit written comments regarding this proposed rule. All written comments must be received by the undersigned on or before July 23, 1997.

DATED this 2nd day of July, 1997.

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

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**THIS CHAPTER IS REPEALED IN ITS ENTIRETY**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

**16.02.27 - IDAHO RADIATION CONTROL RULES**

**DOCKET NO. 16-0227-9701**

**NOTICE OF PROPOSED RULES**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Title 39, Chapters 1 and 30, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 1997.

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

**DESCRIPTIVE SUMMARY:** This docket rewrites IDAPA 16, Title 01, Chapter 09, and places the necessary rules for x-ray machine operation in the Department of Health, Division of Health rule area (Title 02). The rules are nearly identical to those previously used by the Department of Environmental Quality (DEQ) when x-ray certification was performed out of that office. All references to the Radioactive Materials (RAM) program have been removed and the language adjusted accordingly. These rules set the basis for the registration and inspection of x-ray machines in Idaho regardless of their location or use.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact David Eisentrager at (208) 334-2235 ext. 245.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before July 23, 1997.

DATED this 2nd day of July, 1997.

STACI WELSH  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 334-5548 fax

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**TEXT OF DOCKET NO. 16-0227-9701**

**IDAPA 16  
TITLE 02  
Chapter 27**

**16.02.27 - IDAHO RADIATION CONTROL RULES**

**000. LEGAL AUTHORITY.**

The Idaho Legislature in Title 39, Chapters 1 and 30, Idaho Code, has granted to the Board of Health and Welfare the authority to adopt rules governing the control of radiation to protect the health of the citizens of the state. The Idaho Legislature in Title 39, Chapters 1 and 30, Idaho Code, has granted the Director of the Department of Health and Welfare the authority to enforce rules adopted by the Idaho State Board of Health and Welfare. ( )

**001. TITLE AND SCOPE.**

These rules shall be cited, in full, as Idaho Department of Health and Welfare Rules, IDAPA 16, Title 02, Chapter 27, "Idaho Radiation Control Rules." Except as otherwise specifically provided, these rules apply to all persons who possess, use, transfer, own or acquire any radiation machine. ( )

**002. DEFINITIONS.**

As used in these rules, the following terms have the definitions set forth below: ( )

( ) 01. Accessible Surface. The external surface of the enclosure or housing provided by the manufacturer. ( )

02. Act. The "Radiation and Nuclear Material Act," Sections 39-3001 through 39-3024, Idaho Code. ( )

03. Added Filtration. Any filtration added to the inherent filtration. ( )

04. Aluminum Equivalent. The thickness of aluminum (Type 1100) affording the same attenuation, under specified conditions, as the material in question. ( )

05. Analytical X-Ray Equipment. Equipment used for x-ray diffraction or fluorescence analysis. ( )

06. Analytical X-Ray System. A group of components utilizing x-rays or gamma rays to determine the elemental composition or to examine the microstructure of material. ( )

07. Assembler. Any person engaged in the business of assembling, replacing, or installing one (1) or more components into an x-ray system or subsystem. The term includes the owner of an x-ray system or his employee or agent who assembles components into an x-ray system that is subsequently used to provide professional or commercial services. ( )

08. Attenuation Block. A block or stack, having dimensions twenty (20) centimeters by twenty (20) centimeters by three and eight-tenths (3.8) centimeters, of type 1100 aluminum alloy or other materials having equivalent attenuation. ( )

09. Automatic Exposure Control. A device which automatically controls one (1) or more technique factors in order to obtain at a preselected location(s) a required quantity of radiation (see also "Phototimer"). ( )

10. Beam Limiting Device. A device which provides a means to restrict the dimensions of the x-ray field, such as but not limited to collimator, diaphragm, or cone. ( )

11. Cabinet Radiography. Industrial radiography using radiation machines, which is conducted in an enclosed, interlocked cabinet, such that the radiation machine will not operate unless all openings are securely closed, and the cabinet is so shielded that every location on the exterior meets conditions for an unrestricted area as specified in Subsection 110.04. ( )

12. Cabinet X-Ray System. An x-ray system with the x-ray tube installed in an enclosure (hereinafter termed cabinet) which, independently of existing architectural structures except the floor on which it may be placed, is intended to contain at least that portion of a material being irradiated, provide radiation attenuation and exclude personnel from its interior during generation of x-radiation. Included are all x-ray systems designed primarily for the inspection of carry-on baggage at airline, railroad and bus terminals and in similar facilities. An x-ray tube used within a shielded part of a building, or x-ray equipment which may temporarily or occasionally incorporate portable shielding is not considered a cabinet x-ray system. ( )

13. Calendar Quarter. Not less than twelve (12) consecutive weeks nor more than fourteen (14) consecutive weeks. The first calendar quarter of each year will begin in January and subsequent calendar quarters will be arranged so that no day is included in more than one (1) calendar quarter and no day in any one (1) year is omitted from inclusion within a calendar quarter. ( )

14. Calibration. The determination of: ( )
- a. The response or reading of an instrument relative to a series of known radiation values over the range of the instrument; or ( )
- b. The strength of a source of radiation relative to a standard. ( )
15. Certified Cabinet X-Ray System. A cabinet x-ray system which has been certified in accordance with 21 CFR 1010.2 as having been manufactured, assembled and maintained pursuant to the provisions of 21 CFR 1020.40. ( )
16. Certified Components. Components of x-ray systems which are subject to regulations promulgated under P.L. 90-602 which is available at all county law libraries. ( )
17. Certified System. Any x-ray system which has one (1) or more certified components. ( )
18. CFR. Code of Federal Regulations. ( )
19. Collimator. A device or mechanism by which the x-ray beam is restricted in size. ( )
20. Control Panel. That part of the x-ray control upon which are mounted the switches, knobs, pushbuttons, and other hardware necessary for manually setting the technique factors. ( )
21. Dead-Man Switch. A switch so constructed that a circuit-closing contact can be maintained only by continuous pressure on the switch by the operator. ( )
22. Diagnostic Source Assembly. The tube housing assembly with a beam-limiting device attached. ( )
23. Diagnostic X-Ray System. An x-ray system designed for irradiation of any part of the human body for the purpose of diagnosis or visualization. ( )
24. Dose. Absorbed dose or dose equivalent as appropriate. ( )
- a. Absorbed dose is the energy imparted to matter by ionizing radiation per unit mass of irradiated material at the place of interest. The special unit of absorbed dose is the rad (see "Rad"). ( )
- b. Dose equivalent is a quantity that expresses on a common scale for all radiation a measure of the postulated effect on a given organ. It is defined as the absorbed dose in rads times certain modifying factors. The unit of dose equivalent is the rem (see "Rem"). ( )
25. Entrance Exposure Rate. The exposure per unit time at the point where the center of the useful beam enters the patient. ( )
26. Exposure. The quotient of dQ by dm where "dQ" is the absolute value of the total charge of the ions of one (1) sign produced in air when all the electrons (negatrons and positrons) liberated by photons in a volume element of air having mass "dm" are completely stopped in air (the special unit of exposure is the roentgen (R)). ( )
27. Exposure Rate. The exposure per unit of time, such as roentgen per minute and milliroentgen per hour. ( )
28. Facility. The location at which one (1) or more radiation machines are installed and/or located within one (1) building, vehicle, or under one (1) roof and are under the same administrative control. ( )
29. Fail-Safe Characteristics. A design feature which causes beam port shutters to close, or otherwise

- prevents emergence of the primary beam, upon the failure of a safety or warning device. ( )
30. Filter. Material placed in the useful beam to absorb preferentially the less penetrating radiations. ( )
31. Fluoroscopic Imaging Assembly. A component which comprises a reception system in which x-ray photons produce a fluoroscopic image, including equipment housings, electrical interlocks if any, the primary protective barrier, and structural material providing linkage between the image receptor and the diagnostic source assembly. ( )
32. General Purpose Radiographic X-Ray System. Any radiographic x-ray system which, by design, is not limited to radiographic examination of specific anatomical regions. ( )
33. Gonadal Shield. A protective barrier for the testes or ovaries. ( )
34. Half-Value Layer (HVL). The thickness of a specified substance which, when introduced into the path of a given beam of radiation, reduces the exposure rate by one-half (1/2). ( )
35. Healing Arts. Medicine, dentistry, chiropractic, podiatry, osteopathy, and veterinary medicine. ( )
36. Healing Arts Screening. The testing of human beings using x-ray machines for the detection or evaluation of health indications when such tests are not specifically and individually ordered by a licensed practitioner of the healing arts legally authorized to prescribe such x-ray tests for the purpose of diagnosis or treatment ( )
37. High Radiation Area. Any area, accessible to individuals, in which there exists radiation at such levels that a major portion of the body could receive in any one (1) hour a dose in excess of one hundred (100) millirems. ( )
38. Human Use. The internal or external administration of radiation to human beings. ( )
39. Image Intensifier. A device, including housing, which instantaneously converts an x-ray pattern into a corresponding light image of higher energy density. ( )
40. Image Receptor. Any device, such as a fluorescent screen or radiographic film, which transforms incident x-ray photons either into a visible image or into another form which can be made into a visible image by further transformations. ( )
41. Individual. Any human being. ( )
42. Industrial Radiography. The examination of the macroscopic structure of materials by nondestructive methods utilizing sources of radiation. ( )
43. Inherent Filtration. The filtration permanently in the useful beam, including the window of the x-ray tube and any permanent tube or source enclosure. ( )
44. Inspection. An official examination or observation including but not limited to, tests, surveys, and monitoring to determine compliance with rules, regulations, orders, requirements and conditions of the Radiation Control Agency. ( )
45. Interlock. A device arranged or connected such that the occurrence of an event or condition is required before a second event or condition can occur or continue to occur. ( )
46. Kilovolts Peak (kVp). See "Peak Tube Potential." ( )
47. Lead Equivalent. The thickness of lead affording the same attenuation, under specified conditions, ( )



- as the material in question. ( )
48. Leakage Radiation. Radiation emanating from the diagnostic or therapeutic source assembly except for: ( )
- a. The useful beam; and ( )
  - b. Radiation produced when the exposure switch or timer is not activated. ( )
49. Leakage Technique Factors. The technique factors associated with the diagnostic or therapeutic source assembly which are used in measuring leakage radiation. They are defined as follows: ( )
- a. For diagnostic source assemblies intended for capacitor energy storage equipment, the maximum-rated peak tube potential and the maximum-rated number of exposures in an hour for operation at the maximum-rated peak tube potential with the quantity of charge per exposure being ten (10) millicoulombs, i.e., ten (10) milliamperes seconds, or the minimum obtainable from the unit, whichever is larger. ( )
  - b. For diagnostic source assemblies intended for field emission equipment rated for pulsed operation, the maximum-rated peak tube potential and the maximum-rated number of x-ray pulses in an hour for operation at the maximum-rated peak tube potential. ( )
50. Light Field. That area of the intersection of the light beam from the beam-limiting device and one (1) of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the illumination is one-fourth (1/4) of the maximum in the intersection. ( )
51. Local Components. Part of an analytical x-ray system including areas that are struck by x-rays such as radiation source housings, port and shutter assemblies, collimators, sample holders, cameras, goniometers, detectors, and shielding, but not including power supplies, transformers, amplifiers, readout devices, and control panels. ( )
52. Normal Operating Procedures. Step-by-step instruction necessary to accomplish the analysis. These procedures must include sample insertion and manipulation, equipment alignment, routine maintenance by the registrant and data recording procedures, which are related to radiation safety. ( )
53. Occupational Dose. Exposure of an individual to radiation in a restricted area or exposure in the course of employment in which the individual's duties involve exposure to radiation, provided, that occupational dose will not be deemed to include any exposure of an individual to radiation for the purpose of diagnosis or therapy of such individual. ( )
54. Open Beam Configuration. An analytical x-ray system in which an individual could accidentally place some part of his body in the primary beam path during normal operation. ( )
55. Particle Accelerator. The term "particle accelerator" is very broad and covers many types of devices. It is generally defined as a device used to impart kinetic energy to electrically charged particles such as electrons, protons, deuterons, and helium ions, and is referred to herein to designate devices that accelerate particles to energies greater than approximately one (1) MeV, or to neutron generators which operate with a potential of about one hundred fifty (150) kv. Such accelerators as cyclotrons, betatrons, linear accelerators, Van de Graaff accelerators, Cockcroft-Walton type neutron generators, and resonant transformers are included. ( )
56. Peak Tube Potential. The maximum value of the potential difference across the x-ray tube during an exposure. ( )
57. Permanent Radiographic Installation. An installation or structure designed or intended for radiography and in which radiography is regularly performed. ( )
58. Person. Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state, or political subdivision or agency thereof, ( )

any legal successor, representative, agent or agency of the foregoing. ( )

59. Personal Supervision. Supervision in which the authorized operator of an x-ray unit or radioisotopic device is physically present at the site where sources of radiation and associated equipment are being used, watching the performance of the assistant or trainee and in such proximity that immediate assistance can be given if required. ( )

60. Personnel Monitoring. The determination of exposure to a person. ( )

61. Personnel Monitoring Equipment. Devices designed to be worn or carried by an individual for the purpose of estimating the dose received, such as film or thermoluminescent dosimetry badges, pocket chambers, pocket dosimeters, or film and thermoluminescent dosimetry rings. ( )

62. Phototimer. A method for controlling radiation exposures to image receptors by the amount of radiation which reaches a radiation monitoring device. The radiation monitoring device is part of an electronic circuit which controls the duration of time the tube is activated. ( )

63. Physician. An individual licensed by the Idaho State Board of Medicine to practice medicine. ( )

64. Position Indicating Device (PID). A device on dental x-ray equipment used to indicate the beam position and to establish a definite source-surface (skin) distance. It may or may not incorporate or serve as a beam-limiting device. ( )

65. Primary Beam. Radiation which passes through an aperture of the source housing by a direct path from the x-ray tube or a radioactive source located in the radiation source housing. ( )

66. Protective Apron. Apron made of radiation absorbing materials, used to reduce radiation exposure. ( )

67. Protective Barrier. A barrier of radiation attenuating materials used to reduce radiation exposure. ( )

a. Primary Protective Barrier. A barrier sufficient to attenuate the useful beam to the required degree to assure compliance with Subsections 110.01, 110.03, and 110.04. ( )

b. Secondary Protective Barrier. A barrier sufficient to attenuate stray radiation to the required degree to assure compliance with Subsections 110.01, 110.03, and 110.04. ( )

68. Protective Glove. Glove made of radiation absorbing materials used to reduce radiation exposure. ( )

69. Qualified Expert. An individual who has demonstrated to the satisfaction of the Radiation Control Agency that such individual possesses the knowledge and training to measure ionizing radiation, to evaluate safety techniques, and to advise regarding radiation protection needs. ( )

70. Rad. The special unit of absorbed dose. One (1) rad equals one one-hundredth (.01) of a joule per kilogram of material. For example, if tissue is the material of interest, then one (1) rad equals one hundred (100) ergs per gram of tissue. ( )

71. Radiation. Ionizing radiation, that is, gamma rays and x-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other atomic particles. ( )

72. Radiation Area. Any area, accessible to individuals, in which there exists radiation at such levels that a major portion of the body could receive in any one (1) hour a dose in excess of five (5) millirem, or in any five (5) consecutive days a dose in excess of one hundred (100) millirem. ( )

73. Radiation Control Agency. The Idaho Department of Health and Welfare. ( )
74. Radiation Machine. Any device capable of producing radiation except devices which produce radiation only from radioactive material. ( )
75. Radiation Safety Officer. An individual who has the knowledge and responsibility to apply appropriate radiation protection principles and rules. ( )
76. Radiograph. An image receptor on which the image is created directly or indirectly by an x-ray pattern and results in a permanent record. ( )
77. Radiographer. Any individual who performs or who, in attendance at the site where sources of radiation are being used, personally supervises industrial radiographic operations and who is responsible to the licensee or registrant for assuring compliance with the requirements of these rules and all conditions of licensure. ( )
78. Radiographer's Assistant. Any individual who, under the personal supervision of a radiographer, uses sources of radiation, related handling tools, or survey instruments in industrial radiography. ( )
79. Radiographic Imaging System. Any system whereby a permanent or semi-permanent image is recorded on an image receptor by the action of ionizing radiation. ( )
80. Radiological Physicist. An individual who: ( )
- a. Is certified by the American Board of Radiology in therapeutic radiological physics, radiological physics, or x- and gamma-ray physics; or ( )
- b. Has a bachelor's degree in one of the physical sciences or engineering and three (3) years full-time experience working in therapeutic radiological physics under the direction of a physicist certified by the American Board of Radiology. The work duties must include duties involving the calibration and spot-checks of a medical accelerator or a sealed source teletherapy unit; or ( )
- c. Has a Master's or a Doctor's degree in physics, biophysics, radiological physics, health physics, or engineering; has had one (1) year's full-time training in therapeutic radiological physics; and has had one (1) year's full-time work experience in a radiotherapy facility where the individual's duties involve calibration and spot-checks of a medical accelerator or a sealed source teletherapy unit. ( )
81. Rating. The operating limits as specified by the component manufacturer. ( )
82. Registrant. Any person who owns or possesses any device capable of emitting radiation which is registered with the Radiation Control Agency. ( )
83. Registration. The filing with the Radiation Control Agency of all devices capable of emitting radiation in accordance with these rules. ( )
84. Rem. A measure of dose equivalent. One (1) millirem (mrem) equals one one-thousandth (.001) rem. For the purpose of these rules, any of the following is considered to be equivalent to a dose of one (1) rem: ( )
- a. An exposure of one (1) R of x-, or gamma radiation; or ( )
- b. An absorbed dose of one (1) rad due to x-, gamma, or beta radiation; or ( )
- c. An absorbed dose of one-tenth (0.1) rad due to neutrons or high energy protons. ( )
- d. If it is more convenient to measure the neutron flux, or equivalent, than to determine the neutron dose in rads, one (1) rem of neutron radiation can, for purposes of these rules, be assumed to be equivalent to fourteen

million (14,000,000) neutrons per square centimeter incident upon the body; or, if there exists sufficient information to estimate with reasonable accuracy the approximate distribution in energy of the neutrons, the incident number of neutrons per square centimeter equivalent to one (1) rem can be estimated from the following table.

<b>NEUTRON FLUX DOSE EQUIVALENTS TABLE</b>		
<b>Neutron Energy (MeV)</b>	<b>Number of Neutrons per Square Centimeter Equivalent to a Dose of One (1) Rem (Neutron/cm<sup>2</sup>)</b>	<b>Average Flux to Deliver One hundred (100) Millirem in Forty (40) Hours (Neutrons/cm<sup>2</sup> per Second)</b>
Thermal	970 x 10 <sup>6</sup>	670
0.001	720 x 10 <sup>6</sup>	500
0.005	820 x 10 <sup>6</sup>	570
0.02	400 x 10 <sup>6</sup>	280
0.1	120 x 10 <sup>6</sup>	80
0.5	43 x 10 <sup>6</sup>	30
1.0	26 x 10 <sup>6</sup>	18
2.5	29 x 10 <sup>6</sup>	20
5.0	26 x 10 <sup>6</sup>	18
7.5	24 x 10 <sup>6</sup>	17
10.0	24 x 10 <sup>6</sup>	17
10 to 30	14 x 10 <sup>6</sup>	10

( )

e. An absorbed dose of five one-hundredths (0.05) rad due to particles heavier than protons and with sufficient energy to reach the lens of the eye. ( )

85. Restricted Area. Any area access to which is controlled by the licensee or registrant for purposes of protection of individuals from exposure to radiation and/or radioactive material. Restricted area does not include any areas used for residential quarters, although a separate room or rooms in a residential building can be set apart as a restricted area. ( )

86. Roentgen. A measure of the exposure of x- or gamma radiation in terms in the electric charge produced in air. One (1) Roentgen (R) is defined as the amount of x- or gamma radiation required to produce by ionization 2.58 x 10<sup>4</sup> coulomb of ions per kilogram of dry air. ( )

87. Scattered Radiation. Radiation that, during passage through matter, has been deviated or deflected in direction. ( )

88. Shielded Room Radiography. Industrial radiography conducted in an enclosed room so shielded that every location on the exterior meets the conditions as specified in Subsection 110.04. ( )

89. Shutter. A device, attached to the tube housing assembly which can totally intercept the useful beam and which has a lead equivalency not less than that of the tube housing assembly. ( )

90. Source-Image Receptor Distance (SID). The distance from the source to the center of the input

- surface of the image receptor. ( )
91. Source of Radiation. Any radioactive material, or any device or equipment emitting or capable of producing radiation. ( )
92. Spot Film. A radiograph which is made during a fluoroscopic examination to permanently record conditions which exist during that fluoroscopic procedure. ( )
93. Spot Film Device. A device intended to transport and/or position a radiographic image receptor between the x-ray source and fluoroscopic image receptor, including clip-on cassette holders. ( )
94. SSD (Source Skin Distance). The distance between the source of radiation and the skin of the patient. ( )
95. Stray Radiation. The sum of leakage and scattered radiation. ( )
96. Survey. An evaluation of the production, use, release, disposal, and/or presence of sources of radiation under a specific set of conditions to determine actual or potential radiation hazards. When appropriate, such evaluation includes, but is not limited to tests, physical examination, and measurements of levels of radiation or concentration of radioactive material present. ( )
97. Technique Factors. The conditions of operation are specified as follows: ( )
- a. For capacitor energy storage equipment, peak tube potential in kV and quantity of charge in mAs; and ( )
- b. For field emission equipment rated for pulsed operation, peak tube potential in kV and number of x-ray pulses; and ( )
- c. For all other equipment, peak tube potential in kV and either tube current in mA and exposure time in seconds, or the product of tube current and exposure time in mAs. ( )
98. Temporary Job Site. Any location where industrial radiography is performed other than the location(s) listed in a certificate of registration. ( )
99. Termination of Irradiation. The stopping of irradiation in a fashion which will not permit continuance of irradiation without the resetting of operating conditions at the control panel. ( )
100. Test. The process of certifying compliance with an applicable rules. ( )
101. These Rules. Idaho Department of Health and Welfare Rules, IDAPA 16, Title 02, Chapter 27, Sections 000 through 999, "Idaho Radiation Control Rules." ( )
102. Traceable to a National Standard. When a quantity or a measurement has been compared to a national standard directly or indirectly through one (1) or more intermediate steps and when all comparisons have been documented. ( )
103. Tube. An x-ray tube, unless otherwise specified. ( )
104. Tube Housing Assembly. The tube housing with tube installed, including high-voltage and/or filament transformers and other appropriate elements when contained within the tube housing. ( )
105. Tube Rating Chart. The set of curves which specify the rated limits of operation of the tube in terms of the technique factors. ( )
106. Unrestricted Area. Any area access to which is not controlled by the licensee or registrant for purposes of protection of individuals from exposure to radiation and radioactive materials, and any area used for

residential quarters. ( )

107. Useful Beam. The radiation emanating from the tube housing port or the radiation head and passing through the aperture of the beam-limiting device when the exposure controls are in a mode to cause the system to produce radiation. ( )

108. Variable-Aperture Beam-Limiting Device. A beam-limiting device which has capacity for stepless adjustment of the x-ray field size at a given source to image distance (SID). ( )

109. Visible Area. That portion of the input surface of the image receptor over which incident x-ray photons are producing a visible image. ( )

110. Worker. An individual engaged in work under a registration issued by the Radiation Control Agency and controlled by a registrant, not including the registrant. ( )

111. X-Ray Control. A device which controls input power to the x-ray high-voltage generator and/or the x-ray tube, including equipment such as timers, phototimers, automatic brightness stabilizers and similar devices which control the technique factors of an x-ray exposure. ( )

112. X-Ray Equipment. An x-ray system, subsystem or component thereof. ( )

a. Mobile. X-ray equipment mounted on a permanent base with wheels and/or casters for moving while completely assembled. ( )

b. Portable. X-ray equipment designed to be hand-carried. ( )

c. Stationary. X-ray equipment installed in a fixed location. ( )

113. X-Ray Field. That area of the intersection of the useful beam and any one (1) of the set of planes parallel to and including the plane of the image receptor, whose perimeter is the locus of points at which the exposure rate is one-fourth (1/4) of the maximum in the intersection. ( )

114. X-Ray High-Voltage Generator. A device which transforms electrical energy from the potential supplied by the x-ray control to the tube operating potential, including but not limited to a means for transforming alternating current to direct current, filament transformers for the x-ray tube(s), high-voltage switches, electrical protective devices and other appropriate elements. ( )

115. X-Ray Source. The focal spot of the x-ray tube. ( )

116. X-Ray System. An assemblage of components for the controlled production of x-rays, including an x-ray high-voltage generator, an x-ray control, a tube housing assembly, a beam-limiting device and the necessary supporting structures; additional components which function with the system are considered integral parts of the system. ( )

117. X-Ray Tube. Any electron tube which is designed for the conversion of electrical energy into x-ray energy. ( )

**003. -- 005. (RESERVED).**

**006. EXEMPTIONS.**

The Radiation Control Agency can, upon application therefor or upon its own initiative, grant such exemptions or exceptions from the requirements of these rules as it determines are authorized by law and will not result in undue hazard to public health and safety and/or property. ( )

**007. RECORDS.**

Each registrant must keep records showing the receipt, transfer, and disposal of all radiation machines. Additional record requirements are specified elsewhere in these rules. ( )

**008. INSPECTIONS.**

01. Preregistration Inspections. The Agency has the right to conduct preclicensing inspections to verify information contained in applications and secure additional information deemed necessary to make a reasonable determination as to whether to issue a registration and whether any special conditions must be attached thereto by visiting the facility or location where radiation machines would be possessed or used. ( )

02. Inspections of Facilities. Each registrant must afford the Agency at all reasonable times opportunity to inspect radiation machines and the premises and facilities wherein such radiation machines are used or stored. ( )

03. Inspections of Records. Each registrant will make available to the Agency for inspection, upon reasonable notice, records maintained pursuant to these rules. ( )

**009. TESTS.**

Each registrant must perform or permit the Radiation Control Agency to perform such reasonable tests as the Radiation Control Agency deems appropriate or necessary including, but not limited to, tests of radiation machines, facilities wherein radiation machines are used or stored, radiation detection and monitoring instruments, and other equipment and devices used in connection with utilization or storage of registered radiation machines. ( )

**010. ADDITIONAL REQUIREMENTS.**

The Radiation Control Agency can, by registration condition, impose upon any registrant such requirements in addition to those established in these rules as it deems appropriate or necessary to minimize danger to public health and safety and/or property. ( )

**011. VIOLATIONS.**

An injunction or other court order can be obtained prohibiting any violations of any provision of the Act or any rule, regulation, or order issued thereunder. Any person who willfully violates any provision of the Act or any rule, regulation, or order issued thereunder could be guilty of a crime and, upon conviction, could be punished by fine or imprisonment or both, as provided by law. ( )

**012. IMPOUNDING.**

Radiation machines are subject to impoundment pursuant to Section 39-3014, Idaho Code. ( )

**013. PROHIBITED RADIATION USES.**

01. Radiation Sources Used for Shoe Sizing. It is unlawful to operate any device or machine using fluoroscopic x-ray or radiation principles for fitting or selling footwear. ( )

02. Unauthorized Use on Humans. It is unlawful to intentionally apply ionizing radiation to human beings except by or under direct supervision of persons, other than veterinarians, licensed to practice healing arts and authorized to use such radiation or as otherwise provided in these rules related to exposures. ( )

03. General Health and Safety. The Radiation Control Agency shall have the authority to prohibit the use of radiation machines when found to be detrimental to health and safety. ( )

**014. COMMUNICATIONS.**

All communications and reports concerning these rules, and applications filed thereunder, may be addressed to the Radiation Control Section, Idaho Department of Health and Welfare, Bureau of Laboratories, 2220 Old Penitentiary Road, Boise, Idaho 83712-8299. ( )

**015. -- 049. (RESERVED).**

**050. REGISTRATION.**

Sections 050 through 099 provide for the registration of radiation machines. ( )

**051. SCOPE.**

Radiation machines, unless exempt under Section 006 and 053, must be registered with the Radiation Control Agency in accordance with the requirements of Section 090. ( )

**052. (RESERVED).**

**053. EXEMPTIONS FOR REGISTRATION PURPOSES.**

The following radiation machines are exempt from the registration requirements: ( )

01. Television Receivers. Domestic television receivers; and ( )

02. Radiation Producing Electrical Equipment. Other electrical equipment that produces radiation incidental to its operation for other purposes, providing the dose equivalent rate averaged over an area of ten (10) square centimeters does not exceed five-tenths (0.5) millirem per hour at five (5) centimeters from any accessible surface of such equipment. The production testing or factory servicing of such equipment is not exempt; and ( )

03. Machines in Transit or Storage. Radiation machines while in transit or storage incident thereto. ( )

**054. -- 089. (RESERVED).**

**090. REGISTRATION.**

01. Registration of Radiation Machine Facilities. The owner or person having possession of any radiation machine or facility shall apply for registration with the Radiation Control Agency within thirty (30) days of acquisition and prior to operation of such facility. ( )

a. Application for registrations shall be on forms furnished by the Radiation Control Agency and shall contain: ( )

i. Name of the owner, organization or person having administrative control and responsibility for use; and ( )

ii. Address and telephone number where the machine is located and used except that a central headquarters can be used for a mobile machine used at various temporary field locations; and ( )

iii. A designation of the general category of use, such as dental, medical, industrial, veterinary, and research. ( )

iv. The manufacturer, model number, and type of each radiation machine located within the facility. ( )

v. If the facility is mobile, the geographic areas within the State where it will be used. ( )

vi. The signature of the individual designated under Subsection 090.01.b. ( )

vii. Name of the radiation machine supplier, installer, and service agent. ( )

viii. The date of application and signature of the individual responsible for the use of the facility. ( )

b. Designate on the application form an individual to be responsible for radiation protection. ( )

c. Each registrant shall prohibit any person from furnishing radiation machine servicing or services as described in Subsection 090.02 to his radiation machine facility until such person provides evidence that such person has been registered with the Agency as a provider of services in accordance with Subsection 090.02. ( )

02. Application for Registration of Servicing and Services. ( )



a. Each person who is engaged in the business of installing or offering to install radiation machines or is engaged in the business of furnishing or offering to furnish radiation machine servicing or services in this State shall apply for registration with the Agency within thirty (30) days prior to furnishing or offering to furnish any such services.  
( )

b. When required by the Radiation Control Agency an application for registration shall be completed on forms furnished by the Agency and contain: ( )

i. Name, address, and telephone number of the following: ( )

(1) The individual or the company to be registered. ( )

(2) The owner(s) of the company. ( )

ii. The services which are to be provided. ( )

iii. The area of the State and other states to be covered. ( )

iv. A list of the individuals or employees qualified to provide these services. ( )

v. The date of application and signature of the individual responsible for the company, beneath a statement of the items specified in Subsection 090.02. ( )

c. Each person listed under Subsection 090.02.b.i.(1) shall specify: ( )

i. That such person has read and understands the requirements of these rules; ( )

ii. The services for which such person is applying for registration; ( )

iii. The training and experience that qualify such person listed under Subsections 090.02.b.i.(1) and 090.02.b.ii. to discharge the services for which the registrant is applying for registration; ( )

iv. The type of measurement instrument to be used, frequency of calibration, and source of calibration; and ( )

v. The type of personnel dosimeters supplied, frequency of reading, and replacement or exchange schedule. ( )

d. For the purpose of Subsection 090.02 services include but may not be limited to: ( )

i. Installation or servicing of radiation machines and associated radiation machine components; ( )

ii. Calibration of radiation machines or radiation measurement instruments or devices; ( )

iii. Radiation protection or health physics consultations or surveys; and ( )

iv. Personnel dosimetry services. ( )

e. No individual may perform services which are not specifically stated for that individual on the notice of registration issued by the Radiation Control Agency. ( )

03. Issuance of Notice of Registration. ( )

a. Upon a determination that an applicant meets the requirements of the rules and regulations, the Radiation Control Agency may issue a notice of registration. ( )

b. The Radiation Control Agency may incorporate in the notice of registration at the time of issuance or thereafter by appropriate rule, regulation, or order, such additional requirements and conditions with respect to the registrant's receipt, possession, use, and transfer of radiation machines as it deems appropriate or necessary. ( )

04. Expiration of Notice of Registration. Except as provided by Subsection 090.05, each notice of registration will expire at the end of the day specified in the notice in the month and year stated therein. ( )

05. Renewal of Notice of Registration. ( )

a. Application for renewal of registration shall be filed in accordance with Subsection 090.01 or 090.02. ( )

b. In any case in which a registrant not less than thirty (30) days prior to the expiration of his existing notice of registration has filed an application in proper form for renewal, such existing notice of registration shall not expire until the application status has been finally determined by the Radiation Control Agency. ( )

06. Report of Changes. The registrant shall notify the Radiation Control Agency in writing before any change which would render the information contained in the application for registration or the notice of registration no longer accurate. ( )

07. Approval Not Implied. No person, in any advertisement, shall refer to the fact that a facility is registered with the Radiation Control Agency pursuant to the provisions of Section 090 and no person shall state or imply that any activity under such registration has been approved by the Radiation Control Agency. ( )

08. Seller, Vendor, Assembler or Transfer Obligation. ( )

a. Any person who sells, leases, transfers, or lends radiation machines in this State shall notify the Radiation Control Agency within fifteen (15) days of: ( )

i. The names and addresses of persons who have received these machines; and ( )

ii. The manufacturer and model of each machine transferred, sold, leased, or lent; and ( )

iii. The date of transfer, sale, lease, or lending of each radiation machine. ( )

b. No person shall make, sell, lease, transfer, lend or install x-ray equipment or the supplies used in connection with such equipment unless such supplies and equipment, when placed in operation and used, meets the requirements of these rules. This includes responsibility for the delivery of cones or collimators, filters, adequate timers, and fluoroscopic shutters where applicable. ( )

09. Out-Of-State Radiation Machines. Whenever any radiation machine is to be brought into the State for use during a period not in excess of one hundred eighty (180) days, the person proposing to bring such machine into the State must give written notice to the Radiation Control Agency at least five (5) working days before such machine enters the State. The notice must include the type of radiation machine, the nature, duration, and scope of use, and the exact location where the radiation machine is to be used. If, for a specific case, the five (5) day period would impose an undue hardship on the person, he can, upon application to the Radiation Control Agency, obtain permission to proceed sooner. In addition, the person with an out-of-state machine must: ( )

a. Comply with all applicable rules and regulations of the Radiation Control Agency; and ( )

b. Supply the Radiation Control Agency with other information which the Radiation Control Agency reasonably requests. ( )

10. Registrant Obligation. The registrant will be subject to all applicable requirements of these rules. ( )

**091. ADMINISTRATIVE APPEAL OF FINAL REGISTRATION DECISIONS.**

Within thirty (30) days after a final registration decision has been issued pursuant to Sections 050 through 090 the applicant may petition the Radiation Control Agency to review the decision in accordance with this Section. The thirty (30) day period within which an applicant may request review under this Section begins with the service of notice of the Radiation Control Agency's decision unless a later date is specified in that notice. Any petition for administrative review shall be in writing and state the reasons supporting review. Within a reasonable time following filing of a petition for review, the Radiation Control Agency shall hold a hearing in accordance with Title 67, Chapter 52, Idaho Code, and issue a final decision. ( )

**092. MODIFIED REVOCATION OF REGISTRATION.**

01. Modification, Revocation, and Termination of Registrants. Pursuant to amendments to the Act, departmental rules or regulations, or orders issued by the Radiation Control Agency, the terms and conditions of all registrations are subject to amendment, revision, or modification, and are subject to suspension or revocation. ( )

- a. Any registration can be revoked, suspended, modified, or denied, in whole or in part. ( )
  - i. For any materially false statement: ( )
    - (1) In the application; or ( )
    - (2) In any statement of fact required under provisions of the Act or under these rules; or ( )
  - ii. Because of the conditions revealed: ( )
    - (1) By the application; or ( )
    - (2) By statement of fact; or ( )
    - (3) By any report; or ( )
    - (4) By any record; or ( )
    - (5) By any inspection; or ( )
    - (6) By any other means which would warrant the Radiation Control Agency to refuse to grant a registration on an original application; or ( )
  - iii. For violations of or failure to observe any of the terms and conditions: ( )
    - (1) Of the Act; or ( )
    - (2) Of the license; or ( )
    - (3) Of any rule; or ( )
    - (4) Of any regulation; or ( )
    - (5) Of an order of the Radiation Control Agency. ( )
- b. Except in cases of willful violation or in which the public health, interest or safety requires otherwise, no registration can be modified, suspended, or revoked unless, prior to the institution of proceedings therefor, the facts or conduct which warrant such actions have been called to the attention of the registrant in writing and the registrant must have been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements. ( )

04. Emergency Action. If the Director finds the public health, safety or welfare requires emergency

action, the Director shall incorporate findings in support of such action in a written notice of emergency revocation issued to the registrant. Emergency revocation shall be effective upon receipt by the registrant. Thereafter, if requested by the registrant in writing, the Director shall provide the registrant a revocation hearing and prior notice thereof. Such hearings shall be conducted in accordance with Title 67, Chapter 52, Idaho Code. ( )

**093. -- 099. (RESERVED).**

**100. STANDARDS FOR PROTECTION AGAINST RADIATION.**

Section 100 establishes standards for protection against radiation hazards. Except as otherwise specifically provided, Section 100 applies to all registrants. Nothing in Section 100 can be interpreted as limiting the intentional exposure of patients to radiation for the purpose of medical diagnosis or therapy. In addition to complying with these requirements, every reasonable effort must be made to maintain radiation exposures, to unrestricted areas, as far below the limits specified in Section 100 as practicable. The phrase "as far below the limits specified in Section 100 as practicable" means as low as is practicably achievable taking into account the state of technology, and the economics of improvements in relation to benefits to the public health and safety and other socioeconomic considerations in relation to the utilization of ionizing radiation in the public interest. ( )

**101. -- 109. (RESERVED).**

**110. OCCUPATIONAL EXPOSURES.**

01. Exposure of Individuals to Radiation in Restricted Areas. Except as provided in Subsection 110.01.b., no registrant may possess, use, receive, or transfer radiation machines in such a manner as to cause any individual in a restricted area to receive in any period of one (1) calendar quarter from all radiation machines in the registrant's possession a dose in excess of the limits specified in Subsection 110.01.a.: ( )

a. Occupational Exposure Limits.

Occupational Exposure Limits	
	Rem Per Calendar Quarter
Whole body, head and trunk, active blood-forming organs, lens of eyes, or gonads	1 1/4
Hands and forearms, feet and ankles	18 3/4
Skin of whole body	7 1/2

( )

b. A registrant may permit an individual in a restricted area to receive a dose to the whole body greater than that permitted in the table in Subsection 110.01.a., provided: ( )

i. During any calendar quarter the dose to the whole body from radiation machines in the registrant's possession does not exceed three (3) rem; and ( )

ii. The dose to the whole body, when added to the accumulated occupational dose to the whole body, does not exceed five (5) (N-18) rem where "N" equals the individual's age in years at his last birthday; and ( )

iii. The registrant has determined the individual's accumulated occupational dose to the whole body on a clear and legible record containing all the information required pursuant to Subsection 140.01.a. and has otherwise complied with the requirements of Subsection 110.02 as used in Subsection 110.01.b. "Dose to the whole body" includes any dose to the whole body, gonads, active blood-forming organs, head and trunk, or lens of the eye. ( )

c. For determining the doses specified in Section 110 a dose from x-rays or gamma rays up to ten (10) MeV can be assumed to be equivalent to the exposure measured by a properly calibrated appropriate instrument in air

at or near the body surface in the region of the highest dose rate. ( )

d. No registrant can change the method observed by him of determining calendar quarter for purposes of these rules except at the beginning of a calendar year from Subsection 002.14. ( )

02. Determination of Accumulated Dose. ( )

a. Each registrant shall require any individual, prior to first entry of the individual into the registrant's restricted area during each employment or work assignment under such circumstances that the individual will receive or is likely to receive in any period of one (1) calendar quarter an occupational dose in excess of twenty-five percent (25%) of the applicable standards specified in Subsections 110.01 and 110.04.a., to disclose in a written, signed statement: ( )

i. That the individual had no prior occupational dose during the current calendar quarter; or ( )

ii. The nature and amount of any occupational dose which the individual may have received during the specifically identified current calendar quarter, from radiation machines possessed or controlled by the other persons, and each registrant shall maintain records of such statements until the Agency authorizes disposition. ( )

b. Before permitting any individual in a restricted area to receive exposure to radiation in excess of the limits specified in Subsection 110.01, each registrant must: ( )

i. Obtain a signed certificate on a clear and legible record containing all the information required, showing each period of time after the individual attained the age of eighteen (18) in which the individual received an occupational dose of radiation (copies of certificates can be obtained from the Radiation Control Agency); and ( )

ii. Calculate, on a clear and legible record containing all the information required pursuant to Subsection 140.01.a., the previously accumulated occupational dose received by the individual and the additional dose allowed for that individual under Subsection 110.01.b. ( )

iii. In the preparation of a clear and visible record containing all the information required, make a reasonable effort to obtain reports of the individual's previously accumulated occupational dose. For each period for which the registrant obtains such report, he must use the dose shown in the report. In any case where a registrant is unable to obtain reports of the individual's occupational dose for a previous complete calendar quarter, it must be assumed that the individual has received the occupational dose specified in the following applicable columns:

<b>ASSUMED OCCUPATIONAL DOSES</b>		
<b>Part of Body</b>	<b>Column 1</b>	<b>Column 2</b>
	Assumed Dose in Rem for Calendar Quarters Prior to January 1, 1961	Assumed Dose in Rem for Calendar Quarters on or After January 1, 1961
Whole Body, gonads, active blood-forming organs, head and trunk, lens of eye	3 3/4	1 1/4

( )

iv. The registrant shall retain and preserve all records used until the agency authorizes their disposition. If calculation of the individual's accumulated occupational dose for all periods prior to January 1, 1961, yields a result higher than the applicable accumulated dose value for the individual as of that date, as specified in Subsection 110.01.b., the excess can be disregarded. ( )

03. Exposure of Minors. ( )

a. Registrants must not possess, use or transfer radiation machines in such a manner as to cause any individual within a restricted area, who is under eighteen (18) years of age, to receive in any period of one (1) calendar quarter from all sources of radiation in such licensee's or registrant's possession a dose in excess of ten percent (10%) of the limits specified in the table in Subsection 110.01.a. For determining the doses specified in Subsection 110.04.a., a dose from x-rays or gamma rays up to ten (10) MeV can be assumed to be equivalent to the exposure measured by a properly calibrated appropriate instrument in air at or near the body surface in the region of the highest dose rate. ( )

04. Permissible Levels of Radiation from External Sources in Unrestricted Areas. ( )

a. Except as authorized by the Radiation Control Agency pursuant to Subsection 110.05.c., licensees or registrants must not possess, use, or transfer radiation machines in such a manner as to create in any unrestricted area from such sources of radiation in his possession: ( )

i. Radiation levels which, if an individual were continuously present in the area, could result in his receiving a dose in excess of two (2) millirem in any one (1) hour; or ( )

ii. Radiation levels which, if an individual were continuously present in the area, could result in his receiving a dose in excess of one hundred (100) millirem in any seven (7) consecutive days. ( )

b. It is the intent of Subsection 110.05 to limit radiation levels so that it is unlikely that individuals in unrestricted areas would receive a dose to the whole body in excess of five-tenths (0.5) rem in any one (1) year. If in specific instances, it is determined by the Radiation Control Agency that this intent is not being met, the Radiation Control Agency can, pursuant to Section 010 impose such additional requirements on the licensee or registrant as necessary. ( )

c. Any person can apply to the Radiation Control Agency for proposed limits upon levels of radiation in unrestricted areas in excess of those specified in Subsection 110.05.a. resulting from the applicant's possession or use of radiation machines. Such applications must include information as to anticipated average radiation levels and anticipated occupancy times for each unrestricted area involved. The Radiation Control Agency will approve the proposed limits if the applicant demonstrates to the satisfaction of the Radiation Control Agency that the proposed limits are not likely to cause any individual to receive a dose to the whole body in any period of one (1) calendar year in excess of five-tenths (0.5) rem. ( )

**111. -- 119. (RESERVED).**

**120. PRECAUTIONARY PROCEDURES.**

01. Surveys. Each registrant must make or cause to be made such surveys, as defined in Subsection 002.96, as necessary for him to establish compliance with these rules, and as reasonable under the circumstances to evaluate the extent of radiation hazards that may be present. ( )

02. Personnel Monitoring. Each registrant must supply appropriate personnel monitoring equipment to, and must require the use of such equipment by: ( )

a. Each individual who enters a restricted area under such circumstances that he receives, or is likely to receive, a dose in any one (1) calendar quarter in excess of twenty-five percent (25%) of the applicable value specified in Subsection 110.01.a.; and ( )

b. Each individual under eighteen (18) years of age who enters a restricted area under such circumstances that he receives, or is likely to receive, a dose in any one (1) calendar quarter in excess of five percent (5%) of the applicable value specified in Subsection 110.01.a.; and ( )

c. Each individual who enters a high radiation area. ( )

03. Caution Signs, Labels, and Signals. ( )
- a. General: Except as otherwise authorized by the Radiation Control Agency, symbols prescribed by Subsection 120.03 must use the conventional radiation caution colors, magenta or purple on yellow background. The radiation symbol is the conventional three-bladed design as follows: ( )
- i. Cross-hatched area must be magenta or purple; and ( )
- ii. Background must be yellow. ( )
- iii. Design must appear as indicated in Appendix A located at the end of this chapter. ( )
- iv. In addition to the contents of signs and labels prescribed in this Section, a registrant can provide on or near such signs and labels any additional information which could be appropriate in aiding individuals to minimize exposure to radiation. ( )
- b. Radiation Areas. Each radiation area must be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:
- "CAUTION" (or) "DANGER"**
- "RADIATION AREA"** ( )
- c. High Radiation Areas. Each high radiation area must be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words:
- "CAUTION" (or) "DANGER"**
- "HIGH RADIATION AREA"** ( )
- i. Each entrance or access point to a high radiation area must be: ( )
- (1) Equipped with a control device which will cause the level of radiation to be reduced below that at which an individual might receive a dose of one hundred (100) millirem in one (1) hour upon entry into the area; or ( )
- (2) Equipped with a control device which will energize a conspicuous visible or audible alarm signal in such a manner that the individual entering the high radiation area and the registrant, or a supervisor of the activity are made aware of the entry; or ( )
- (3) Maintained locked except during periods when access to the area is required, with positive control over each individual entry. ( )
- ii. The controls required by Subsection 120.03.c.ii. must be established in such a way that no individual will be prevented from leaving a high radiation area. ( )
- iii. In the case of a high radiation area established for a period of thirty (30) days or less, direct surveillance to prevent unauthorized entry can be substituted for the controls required by Subsection 120.03.c.ii. ( )
- iv. Any registrant can apply to the Radiation Control Agency for approval of methods not included in Subsections 120.03.c.ii. and 120.03.c.iv. for controlling access to high radiation area. The Radiation Control Agency will approve the proposed alternatives if the registrant demonstrates that the alternative method of control will prevent unauthorized entry into a high radiation area, and that the requirement of Subsection 120.03.c.iii. is met. ( )

**121. -- 139. (RESERVED).**

**140. RECORDS, REPORTS, AND NOTIFICATIONS.**

- 01. Records of Surveys and Radiation Monitoring. ( )
  - a. Each registrant shall maintain records showing the radiation exposures of all individuals for whom personnel monitoring is required under Subsection 120.02. Such records must be kept on clear and legible records containing all the information required below: ( )
    - i. Name; and ( )
    - ii. Social Security Number; and ( )
    - iii. Date of Birth; and ( )
    - iv. Name of Registrant; and ( )
    - v. Dose Records for the whole body, skin, or hands and forearms, feet and ankles; and ( )
    - vi. Whole Body Dose Status; and ( )
    - vii. Method of Monitoring; and ( )
    - viii. Period of Exposure; and ( )
    - ix. X-Ray or Gamma Dose for Period; and ( )
    - x. Neutron Dose for Period; and ( )
    - xi. Total Dose for Period; and ( )
    - xii. Running Dose for Calendar Quarter; and ( )
    - xiii. Total Lifetime Accumulated Dose. ( )
  - b. The doses entered in the forms or records required above must be for periods of time not exceeding one (1) calendar quarter. ( )
  - c. Each registrant shall maintain records in the same units used in Section 100 showing the results of surveys required by Subsection 120.01. ( )
  - d. Records of individual exposure to radiation which must be maintained pursuant to Subsection 140.01.a. must be preserved indefinitely or until the Radiation Control Agency authorizes their disposal. ( )
  - e. The discontinuance of or curtailment of activities, does not relieve the registrant of responsibility for retaining all records required by this Section. A registrant can, however, request the Radiation Control Agency to accept such records. Acceptance of the records by the Radiation Control Agency relieves the or registrant of subsequent responsibility only in respect to their preservation as required by this Section. ( )
  - f. Records of the results of surveys and monitoring which must be maintained pursuant to Subsection 140.01.c. must be preserved for two (2) years after completion of the survey except that the following records may be maintained until the Agency authorized their disposition: ( )
    - i. Records of the results of surveys to determine compliance with Subsection 110.03; and ( )
    - ii. In the absence of personnel monitoring data, records of the results of surveys to determine external



radiation dose; and ( )

g. Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Agency rules. ( )

h. If there is a conflict between the Agency's rules in this part, registration, or other written Agency approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the rules in this part for such records will apply unless the Agency, pursuant to Section 006 of this chapter, has granted a specific exemption from the record retention requirements specified in the rules in this part. ( )

02. Report of Theft or Loss of Sources of Radiation. Each licensee or registrant must report by telephone to the Radiation Control Agency the theft or loss of any source of radiation immediately after such occurrence becomes known. ( )

03. Notification of Incidents. ( )

a. Each registrant must immediately notify the Radiation Control Agency by telephone of any incident involving any radiation machine possessed by him and which may have caused or threatens to cause: ( )

i. A dose to the whole body of any individual of twenty-five (25) rems or more of radiation; a dose to the skin of the whole body of any individual of one hundred fifty (150) rem or more of radiation; or a dose to the feet, ankles, hands, or forearms of any individual of three hundred seventy-five (375) rems or more of radiation; or ( )

b. Each registrant must, within twenty-four (24) hours, notify the Radiation Control Agency by telephone of any incident involving any source of radiation possessed by him and which may have caused or threatens to cause: ( )

i. A dose to the whole body of any individual of five (5) rem or more of radiation; a dose to the skin of the whole body of any individual of thirty (30) rem or more of radiation; or a dose to the feet, ankles, hands, or forearms of seventy-five (75) rems or more of radiation; or ( )

c. Any report filed with the Radiation Control Agency pursuant to this Section must be prepared in such a manner that names of individuals who have received exposure to radiation will be stated in a separate part of the report. ( )

d. Details of any report filed with the Radiation Control Agency pursuant to this Section will be held confidential except as necessary for protection of the public health and to prevent accidental overexposure of individuals. ( )

04. Reports of Overexposure and Excessive Levels and Concentration. ( )

a. In addition to any notification required by Subsection 140.03, each registrant must make a report in writing within thirty (30) days to the Radiation Control Agency of: ( )

i. Each exposure of an individual to radiation in excess of any applicable limit as set forth in Section 100 or as otherwise approved by the Radiation Control Agency; and ( )

ii. Any incident for which notification is required by Subsection 140.03; and ( )

iii. Levels of radiation whether or not involving excessive exposure of any individual, in an unrestricted area in excess of ten (10) times any applicable limit as set forth in Section 100 or as otherwise approved by the Radiation Control Agency. Each report required under Subsection 140.04 must describe the extent of exposure of individuals to radiation, including estimates of each individual's exposure as required by Subsection 140.01.b.; levels of radiation; the cause of the exposure, and corrective steps taken or planned to assure against a recurrence. ( )

b. Any report filed with the Radiation Control Agency pursuant to this Section must include, for each

individual exposed, the name, social security number, date of birth, and an estimate of the individual's exposure. The report must be prepared so that this information is stated in a separate part of the report. ( )

c. In any case where a registrant is required pursuant to the provisions of this Section to report to the Radiation Control Agency any exposure of an individual to radiation, the registrant must, not later than the making of such report to the Radiation Control Agency, also notify such individual of the nature and extent of exposure. Such notice must be in writing and must contain the following statement:

"This report is furnished to you under the provisions of the Radiation Control Agency rules entitled "Idaho Radiation Control Rules," IDAPA 16, Title 02, Chapter 27, Rules of the Department of Health and Welfare. You should preserve this report for future reference." ( )

d. Each report required under Subsection 140.04.d. shall describe the extent of exposures of individuals to radiation, levels of radiation involved, the cause of exposure, levels, and corrective steps taken or planned to assure against a recurrence. ( )

05. Notifications and Reports to Individuals. ( )

a. Requirements for notification and reports to individuals of exposure to radiation are specified in Subsection 450.04. ( )

b. When a registrant is required pursuant to Subsection 140.04 to report to the Radiation Control Agency any exposure of an individual to radiation, the registrant must also notify the individual. Such notice must be transmitted at a time not later than the transmittal to the Radiation Control Agency, and must comply with the provisions of Subsection 450.04.a. ( )

06. Records and Reports of Misadministrations. ( )

a. When a misadministration involves any therapy procedure, the registrant shall notify by telephone the Radiation Control Agency. The registrant shall also notify the referring physician of the affected patient and the patient or a responsible relative (or guardian). These notifications must be made within twenty-four (24) hours after the licensee discovers the misadministration. If the referring physician, patient, or the patient's responsible relative or guardian cannot be reached within twenty-four (24) hours, the registrant shall notify them as soon as practicable. The registrant is not required to notify the patient or the patient's responsible relative or guardian without first consulting the referring physician; however, the licensee shall not delay medical care for the patient because of this. ( )

b. Within fifteen (15) days after an initial therapy misadministration report to the Radiation Control Agency, the registrant shall report, in writing to the Radiation Control Agency and to the referring physician, and furnish a copy of the report to the patient or the patient's responsible relative (or guardian) if either was previously notified by the licensee under the provisions of Subsection 140.07.a. The written report must include the registrant's name; the referring physician's name; a brief description of the event; the effect on the patient; the action taken to prevent recurrence; whether the registrant informed the patient or the patient's responsible relative (or guardian), and if not, why not. The report must not include the patient's name or other information that could lead to identification of the patient. ( )

c. When a misadministration involves a diagnostic procedure, the Radiation Safety Officer shall promptly investigate its cause, make a record for review, and retain the record as directed in Subsection 140.07. The registrant shall also notify the referring physician within fifteen (15) days if the misadministration involved the administration of a dosage five (5) fold different from the intended dosage. ( )

d. Each registrant shall retain a record of each misadministration for ten (10) years. The record must contain the names of all individuals involved in the event (including the physician, allied health personnel, the patient, and the patient's referring physician), the patient's social security number or identification number if one has been assigned, a brief description of the event, the effect on the patient, and the action taken, if any, to prevent recurrence. ( )

e. Aside from the notification requirement, nothing in this section affects any rights or duties of

registrants and physicians in relation to each other, patients, or responsible relatives (or guardians). ( )

**141. -- 149. (RESERVED).**

**150. RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS.**

The rules in Section 150 apply to all registrants who use radiation machines for industrial radiography; provided, however, that nothing in Section 150 will apply to the use of radiation machines in the healing arts. The requirements of Section 150 are in addition to and not in substitution for the other requirements of this chapter. ( )

**151. -- 152. (RESERVED).**

**153. EQUIPMENT CONTROL.**

01. Storage Precautions. Radiation machines must be physically secured to prevent tampering or removal by unauthorized personnel. ( )

02. Radiation Survey Instruments. ( )

a. The registrant must maintain sufficient calibrated and operable radiation survey instruments to make physical radiation surveys as required by Section 153 and Subsection 120.01. ( )

b. Each radiation survey instrument must be calibrated at intervals not to exceed three (3) months and after each instrument servicing and a record maintained of the latest date of calibration. Instrumentation required under this Section must have a range such that two (2) milliroentgens per hour through one (1) roentgen per hour can be measured; ( )

i. At energies appropriate for use and at intervals not to exceed three (3) months and after each instrument servicing; ( )

ii. Such that accuracy within plus or minus twenty percent (20%) can be demonstrated; and ( )

iii. At two (2) or more widely separated points, other than zero (0), on each scale. ( )

c. Records of these calibrations must be maintained for two (2) years after the calibration date for inspection by the Radiation Control Agency. ( )

03. Utilization Logs. Each registrant must maintain current logs, which must be kept available for inspection by the Radiation Control Agency, showing for each radiation machine the following information: ( )

a. A description, or make and model number, of each radiation machine; and ( )

b. The identity of the radiographer to whom assigned; and ( )

c. Locations where used and dates of use; and ( )

d. The voltage and current, where applicable, and exposure time for each radiographic exposure employing a radiation machine. ( )

04. Inspection and Maintenance. ( )

a. Each registrant must ensure that checks for obvious defects in radiation machines are performed prior to each day of use. ( )

b. Each registrant must conduct a program of at least quarterly inspection and maintenance of radiation machines to assure proper functioning of components important to safety. All appropriate parts must be maintained in accordance with manufacturer's specifications. Records of inspection and maintenance must be maintained for inspection by the Radiation Control Agency until their disposal is authorized by the Radiation Control Agency.

( )

c. If any inspection conducted pursuant to Subsections 153.04.a. and 153.04.b. reveals damage to components critical to radiation safety, the device must be removed from service until repairs have been made. ( )

05. Permanent Radiographic Installation. Permanent radiographic installations having high radiation area entrance controls of the type described in Subsections 120.03.c.ii.(2), 120.03.c.ii.(3), and 120.03.c.iv. must also meet the following requirements: ( )

a. Each entrance that is used for personnel access to the high radiation area must have both visible and audible warning signals to warn of the presence of radiation. The visible signal must be activated by radiation. The audible signal must be activated when an attempt is made to enter the installation while the source is exposed. ( )

b. The control device or alarm system must be tested for proper operation at the beginning of each period of use. Records of these tests must be maintained for inspection by the Agency until their disposal is authorized. ( )

**154. PERSONAL RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHERS AND RADIOGRAPHERS' ASSISTANTS.**

01. Limitations. On personnel operating radiation machines. ( )

a. Registrants must not permit any individuals to act as radiographers as defined in these rules until such individuals: ( )

i. Have been instructed in the subjects outlined in Subsection 154.04, and have demonstrated understanding thereof; and ( )

ii. Have received copies of and instruction in the rules contained in Section 150 and the applicable Sections of Section 100 and Section 450 Radiation Control Agency registrant's operating and emergency procedures; and have demonstrated understanding thereof; and ( )

iii. Have demonstrated competence to use the source of radiation, related handling tools, and survey instruments which will be employed in their assignment. ( )

iv. Have demonstrated an understanding of the instructions in Subsection 154.01.a. by successful completion of a written test and a field examination on the subjects covered. ( )

b. Registrants must not permit any individuals to act as a radiographer's assistant as defined in these rules until such individuals: ( )

i. Have received copies of and instructions in the registrant's operating and emergency procedures; and have demonstrated understanding thereof; and ( )

ii. Have demonstrated competence to use under the personal supervision of the radiographer the radiation machine and radiation survey instruments which will be employed in their assignment. ( )

iii. Have demonstrated an understanding of the instructions in Section 154.01.b. by successfully completing a written or oral test and a field examination on the subjects covered. ( )

c. Records of the above training, including copies of written tests and dates of oral tests and field examinations, must be maintained for inspection by the Radiation Control Agency for three (3) years following termination of employment. ( )

d. Each registrant must conduct an internal audit program to ensure that the Radiation Control Agency's conditions and the registrant's operating and emergency procedures are followed by each radiographer and radiographer's assistant. These internal audits must be performed at least quarterly, and each radiographer must be

audited at least annually. Records of internal audits must be maintained for inspection by the Agency for two (2) years from the date of the audit. ( )

02. Operating and Emergency Procedures. The registrant's operating and emergency procedures must include instructions in at least the following: ( )

a. The handling and use of radiation machines to be employed such that no individual is likely to be exposed to radiation doses in excess of the limits established in Section 100, "Standards for Protection Against Radiation;" and ( )

b. Methods and occasions for conducting radiation surveys; and ( )

c. Methods for controlling access to radiographic areas; and ( )

d. Methods and occasions for locking and securing radiation machines; and ( )

e. Personnel monitoring and the use of personnel monitoring equipment including steps that must be taken immediately by radiography personnel in the event a pocket dosimeter is found to be off-scale; and ( )

f. Transportation to field locations, including packing of radiation machines in the vehicles, posting of vehicles, and control of radiation machines during transportation; and ( )

g. Minimizing exposure of individuals in the event of an accident; and ( )

h. The procedure for notifying proper personnel in the event of an accident; and ( )

i. Maintenance of records; and ( )

j. The inspection and maintenance of radiation machines. ( )

03. Personnel Monitoring Control. ( )

a. Registrants must not permit any individual to act as a radiographer or as a radiographer's assistant unless, at all times during the radiographic operations, each such individual will wear a film badge or thermoluminescent dosimeter (TLD) and either a pocket dosimeter or pocket chamber. Pocket dosimeters and pocket chambers will be capable of measuring doses from zero (0) to at least two hundred (200) milliroentgens and must be recharged daily or at the beginning of each shift. A film badge or TLD will be assigned to and worn by only one (1) individual. ( )

b. Pocket dosimeters and pocket chambers must be read and doses recorded daily. A film badge or TLD must be immediately processed if a pocket chamber or pocket dosimeter is discharged beyond its range. The film badge or TLD reports received from the processor and records of pocket dosimeter and pocket chamber readings must be maintained for inspection by the Radiation Control Agency. ( )

c. Pocket dosimeters and chambers must be checked for correct response to radiation at periods not to exceed one (1) year. Acceptable dosimeters must read within plus or minus thirty percent (30%) of the true radiation exposure. ( )

04. Subjects to be Covered During the Instruction of Radiographers. ( )

a. Fundamentals of Radiation Safety, to include at least: ( )

i. Characteristics of gamma and x-radiation; and ( )

ii. Units of radiation dose (millirem); and ( )

iii. Bioeffects of excessive exposure of radiation; and ( )

- iv. Levels of radiation from radiation machines; and ( )
- v. Methods of controlling radiation dose, including: ( )
  - (1) Working time; and ( )
  - (2) Working distances; and ( )
  - (3) Shielding; and ( )
- vi. Radiation Protection Standards; and ( )
- b. Radiation Detection Instrumentation, to include at least: ( )
  - i. Use of radiation surveys instruments, including: ( )
    - (1) Operation; and ( )
    - (2) Calibration; and ( )
    - (3) Limitations; and ( )
  - ii. Survey techniques; and ( )
  - iii. Use of Personnel Monitoring Equipment, including: ( )
    - (1) Film badges, TLDs; and ( )
    - (2) Pocket dosimeters; and ( )
    - (3) Pocket chambers; and ( )
- c. Radiographic Equipment, to include at least: ( )
  - i. Operation and control of x-ray equipment; and ( )
  - d. The Requirements of Pertinent Federal regulations and State rules; and ( )
  - e. The Registrant's Written Operating and Emergency Procedures; and ( )
  - f. Case histories of radiography accidents. ( )

**155. PRECAUTIONARY PROCEDURES IN RADIOGRAPHIC OPERATION.**

- 01. Documents Required at Field Radiography Sites. Each registrant conducting industrial radiography at a temporary jobsite must have the following records available at that site for inspection by the Agency: ( )
  - a. Appropriate certificate of registration. ( )
  - b. Operating and emergency procedures; ( )
  - c. Applicable rules and regulations; ( )
  - d. Survey records required pursuant to Section 155 for the period of operation at the site; ( )
  - e. Daily pocket dosimeter records for the period of operation at the site; and ( )

f. The latest instrument calibration and leak test records for specific devices in use at the site. Acceptable records include tags or labels which are affixed to the device or survey meter. ( )

02. Security. During each radiographic operation, the radiographer or radiographer's assistant must maintain a direct surveillance of the operation to protect against unauthorized entry into a high radiation area, as defined in Section 001, except: ( )

a. Where the high radiation area is equipped with a control device or alarm system as described in Subsection 120.03; or ( )

b. Where the high radiation area is locked to protect against unauthorized or accidental entry. ( )

03. Posting. Notwithstanding any provisions in Subsection 120.04.c., areas in which radiography is being performed must be conspicuously posted as required by Subsections 120.03.b. and 120.02.c.i. ( )

04. Radiation Surveys and Survey Records. ( )

a. No radiographic operation will be conducted unless calibrated and operable radiation survey instrumentation, as described in Subsection 153.04, is available and used at each site where radiographic exposures are made. ( )

b. Records must be kept of the surveys required by Subsection 155.04.c. and maintained for inspection by the Radiation Control Agency for two (2) years after completion of the surveys. ( )

c. A physical radiation survey must be made after each radiographic exposure using radiation machines to determine that the machine is "off." ( )

05. Special Requirements and Exemptions for Enclosed Radiography. ( )

a. Systems for enclosed radiography designed to allow admittance of individuals must: ( )

i. Comply with all applicable requirements of this part and Subsection 110.05. If such a system is a certified cabinet x-ray system, it must comply with all applicable requirements of this part and 21 CFR 1020.40. ( )

ii. Be evaluated at intervals not to exceed one (1) year to assure compliance with the applicable requirements as specified in Subsection 155.05.a. Records of these evaluations must be maintained for inspection by the Radiation Control Agency for a period of two (2) years after the evaluation. ( )

b. Certified cabinet x-ray systems designed to exclude individuals are exempt from the requirements of this part except that: ( )

i. Operating personnel must be provided with either a film badge or a thermoluminescent dosimeter, and reports of the results must be maintained for inspection by the Radiation Control Agency. ( )

ii. No registrant may permit any individual to operate a cabinet x-ray system until such individual has received a copy of and instruction in the operating procedures for the unit and has demonstrated competence in its use. Records which demonstrate compliance with this Subsection must be maintained for inspection by the Radiation Control Agency until disposition is authorized by the Radiation Control Agency. ( )

iii. Tests for proper operation of high radiation area control devices or alarm systems, where applicable, must be conducted, recorded, and maintained in accordance with Subsection 153.09. ( )

iv. The registrant must perform an evaluation, at intervals not to exceed one (1) year, to determine conformance with Subsection 110.05. If such a system is a certified cabinet x-ray system, it must be evaluated at intervals not to exceed one (1) year to determine conformance with 21 CFR 1020.40. Records of these evaluations

must be maintained for inspection by the Radiation Control Agency for a period of two (2) years after the evaluation. ( )

c. Certified cabinet x-ray systems must be maintained in compliance with 21 CFR 1020.40 unless prior approval has been granted by the Radiation Control Agency pursuant to Section 006. ( )

**156. -- 199. (RESERVED).**

**200. USE OF X-RAYS IN THE HEALING ARTS.**

Section 200 establishes requirements, for which a registrant is responsible, for use of x-ray equipment by or under the supervision of an individual authorized by and licensed in accordance with state statutes to engage in the healing arts or veterinary medicine. The provisions of Section 200 are in addition to, and not in lieu of, other applicable provisions of these rules. ( )

**201. -- 202. (RESERVED).**

**203. GENERAL REQUIREMENTS.**

The following general requirements must be followed in the use of x-rays in the healing arts. ( )

01. Administrative Controls. ( )

a. The registrant will be responsible for directing the operation of the x-ray machines which have been registered with the Radiation Control Agency under Subsection 090.01. Such persons or designated agents will assure that the following provisions are met in the operation of the x-ray machine(s): ( )

i. An x-ray machine which does not meet the provisions of these rules must not be operated for diagnostic or therapeutic purposes, if so directed by the Radiation Control Agency; and ( )

ii. Individuals who will be operating the x-ray equipment must be adequately instructed in the safe operating procedures and be competent in the safe use of the equipment. ( )

b. In the vicinity of each x-ray system's control panel a chart must be provided which specifies, for all examinations which are performed by that system, a listing of current information, including but not limited to the following, for each projection within that examination: ( )

i. Patient's anatomical size versus technique factors to be utilized; ( )

ii. Type and size of the film or film-screen combination to be used; ( )

iii. Type of grid to be used if any, and focal distance; ( )

iv. Source to image receptor distance to be used; and ( )

v. Type and location of placement of gonadal shielding to be used. ( )

c. Written safety procedures and rules will be provided to each individual operating x-ray equipment under the registrant's control; such procedures and rules will include any restrictions of the operating technique required for the safe operating of the particular x-ray system. The operator must be able to demonstrate familiarity with these rules. ( )

d. Except for patients who cannot be moved out of the room, only the staff and ancillary personnel required for the medical procedure or training can be in the room during the radiographic exposure. For all persons other than the patient being examined, the following must be observed: ( )

i. All individuals will be positioned such that no part of the body, including the extremities not protected by five tenths (0.5) mm lead equivalent, will be struck by the useful beam; ( )



- ii. Staff and ancillary personnel must be protected from the direct scatter radiation by protective aprons or whole body protective barriers of not less than twenty-five hundredths (0.25) mm lead equivalent; ( )
- iii. Patients who cannot be removed from the room will be protected from the direct scatter radiation by whole body protective barriers of twenty-five hundredths (0.25) mm lead equivalent or will be positioned such that the nearest portion of the body is at least two (2) meters from both the tube head and the nearest edge of the image receptor; and ( )
- iv. When a portion of the body of any staff or ancillary personnel is potentially subjected to stray radiation which could result in that individual receiving one-quarter (1/4) of the maximum permissible dose, as defined in Section 100 additional protective devices can be required by the Radiation Control Agency. ( )
- e. Gonadal shielding of not less than five-tenths (0.5) mm lead equivalent must be used for patients who have not passed the productive age of eighteen (18) to forty five (45) during radiographic procedures in which the gonads are in the direct (useful) beam, except for cases where this would interfere with the diagnostic procedure. ( )
- f. Persons must not be exposed to the useful beam except for healing arts purposes, each exposure of which has been authorized by a licensed practitioner of the healing arts. Deliberate exposure for the following purposes is specifically prohibited: ( )
  - i. Exposure of an individual for training, demonstration or other purposes, unless there are also healing arts requirements and proper prescription has been provided; and ( )
  - ii. Exposure of an individual for the purpose of healing arts screening without prior written approval of the Radiation Control Agency. Screening for this purpose will mean an exposure of a person without a prior examination by a licensed practitioner. ( )
- g. When a patient or film must be provided with auxiliary support during a radiation exposure: ( )
  - i. Mechanical holding devices will be used when the technique permits. The safety rules required by Subsection 203.01.c. will list individual projections where holding devices cannot be utilized; ( )
  - ii. Written safety procedures, as required by Subsection 203.01.c., will indicate the requirements for selecting a human holder and the procedure the holder will follow; ( )
  - iii. The human holder will be protected as required by Subsection 203.01.d.; ( )
  - iv. No person can be used routinely to hold film or patients; ( )
  - v. A record must be made of the examination and must include the name of the human holder, date of the examination, number of exposures and technique factors utilized for the exposure(s); and ( )
  - vi. In those cases where the patient must hold the film, except during intraoral examinations, any portion of the body other than the area of clinical interest struck by the useful beam must be protected by not less than five-tenths (0.5) mm lead equivalent material. ( )
- h. Procedures and auxiliary equipment designed to minimize patient and personnel exposure commensurate with the needed diagnostic information must be utilized. This includes but is not limited to: ( )
  - i. The speed of film or screen and film combinations, using the fastest speed consistent with the diagnostic objective of the examinations; ( )
  - ii. Using the minimum radiation exposure to the patient required to produce images of good diagnostic quality; and ( )

- iii. Portable or mobile equipment only for examinations where it is impractical to transfer patients to a stationary radiographic installation. ( )
- i. Regarding personnel monitoring, all persons who are associated with the operation of an x-ray system are subject to the occupational exposure limits and the requirements for the determination of the doses as stated in Section 100. In addition, the following requirements apply: ( )
- i. When protective clothing or other devices are worn on portions of the body and when a monitoring device is required, at least one (1) such device must be worn at the collar outside of the protective clothing. The dose to the whole body based on the maximum dose attributed to any one (1) critical organ, which includes the gonads, blood forming organs, head and trunk, or lens of the eye, must be recorded in the reports required by Subsection 140.01. If more than one (1) device is used and a record is made of the data, each dose must be identified with the area where the device was worn on the body; and ( )
- ii. Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited. ( )
- j. Any person proposing to conduct a healing arts screening program must not initiate such a program without prior approval of the Radiation Control Agency. When requesting such approval, that person must submit the information outlined in the following Subsections. If any information submitted to the Radiation Control Agency becomes invalid or outdated, the Agency must be immediately notified. Persons requesting that the Radiation Control Agency approve a healing arts screening program must submit the following information and evaluations: ( )
- i. Name and address of the applicant and, where applicable, the names and addresses of agents within this State. ( )
- ii. Diseases or conditions for which the x-ray examinations are to be used in diagnoses. ( )
- iii. A detailed description of the x-ray examinations proposed in the screening program. ( )
- iv. Description of the population to be examined in the screening program, i.e., age, sex, physical condition, and other appropriate information. ( )
- v. An evaluation of any known alternate methods not involving ionizing radiation which could achieve the goals of the screening program and why these methods are not used instead of the x-ray examinations. ( )
- vi. An evaluation by a qualified expert of the x-ray system(s) to be used in the screening program. The evaluation by the qualified expert must show that such system(s) do satisfy all requirements of these rules. ( )
- vii. A description of the diagnostic film quality control program. ( )
- viii. A copy of the technique chart for the x-ray examination procedures to be used. ( )
- ix. The qualifications of each individual who will be operating the x-ray system(s). ( )
- x. The qualifications of the individual who will be supervising the operators of the x-ray system(s). The extent of supervision and the method of work performance evaluation must be specified. ( )
- xi. The name and address of the individual who will interpret the radiograph(s). ( )
- xii. A description of the procedures to be used in advising the individuals screened and their private practitioners of the healing arts of the results of the screening procedure and any further medical needs indicated. ( )
- xiii. A description of the procedures for the retention or disposition of the radiographs and other records pertaining to the x-ray examinations. ( )

02. Exemptions. The Radiation Control Agency can waive compliance with the specific requirements of Section 203 for an existing machine or installation if: ( )

a. Such compliance would require replacement or substantial modification of the machine or installation; and ( )

b. The registrant demonstrates to the Radiation Control Agency's satisfaction, achievement through other means of radiation protection equivalent to that required by these rules. ( )

03. Structural Shielding. Each installation must be provided with primary barriers and/or secondary barriers as necessary to assure compliance with Subsections 110.01, 110.04, and 110.05. This requirement will be deemed to be met if the thicknesses of such barriers are equivalent to those as computed in accordance with National Council of Radiation Protection Report No. 49, (or it's successor) "Structural Shielding Design and Evaluation for Medical Use of X- rays and Gamma Rays of Energies up to Ten (10) MeV", which may be obtained from NCRP Publications, 7910 Woodmont, Bethesda, MD 20814. ( )

04. Minimum Design Requirements for an X-ray Machine Operator's Booth. ( )

a. The operator will be allotted not less than seven and five-tenths (7.5) square feet of unobstructed floor space in the booth. The booth must protect the operator from the useful beam and from any radiation which has been scattered only once. ( )

i. The minimum space, as indicated above, can be any geometric configuration but with no dimension less than two (2) feet. ( )

ii. The space allotted will not include any encumbrance by the console, such as overhang, cable, or other similar encroachments. ( )

iii. The booth must be located or constructed such that unattenuated direct scatter radiation originating on the examination table or at the wall cassette does not reach the operator's station in the booth. ( )

iv. The booth walls must be at least seven (7) feet high and must be permanently fixed to the floor or other structure. ( )

v. When a door or movable panel is used as an integral part of the booth structure, it must have a permissive device which prevents an exposure when the door or panel is not closed. ( )

b. The operator's switch for the radiographic machine will be fixed within the booth and: ( )

i. Must be at least forty (40) inches from any open edge of the booth wall which is proximal to the examining table; and ( )

ii. Must allow the operator to use the majority of the available viewing window. ( )

c. Viewing system requirements: ( )

i. Each booth must have at least one (1) viewing device which will: ( )

(1) Be so placed that the operator can view the patient during any exposure; and ( )

(2) Be so placed that the operator can have full view of any occupant of the room and can view any entry into the room. If any door which allows access to the room cannot be seen from the booth, then that door must have a permissive device controlling the exposure which will prevent exposure if the door is not closed. ( )

ii. If the viewing system is a window, the following requirements also apply: ( )

(1) The window must have a visible area of at least one (1) square foot, the center of which is five (5)

feet above the floor; and ( )

(2) The window materials must have at least the same lead equivalence as that required in the booth's wall in which it is to be mounted. ( )

iii. When the viewing system utilizes one (1) or more mirrors, the mirrors must be so located as to accomplish the general requirements as in Subsection 203.04.c.i. ( )

iv. When the viewing system utilizes electronic means, such as a television: ( )

(1) The camera must be so located as to accomplish the general requirements in Subsection 203.04.c.i.; and ( )

(2) There must be an alternate viewing system to serve as a back-up in case of electronic failure. ( )

**204. GENERAL REQUIREMENTS FOR ALL DIAGNOSTIC X-RAY SYSTEMS.**

In addition to other requirements of Section 200, all diagnostic x-ray systems must meet the following requirements: ( )

01. Battery Charge Indicator. On battery-powered generators, visual means must be provided on the control panel to indicate whether the battery is in a state of charge adequate for proper operation. ( )

02. Leakage Radiation From the Diagnostic Source Assembly. The leakage radiation from the diagnostic source assembly measured at a distance of one (1) meter in any direction from the source must not exceed one hundred (100) milliroentgens in one (1) hour when the x-ray tube is operated at its leakage technique factors. Compliance will be determined by measurements averaged over an area of one hundred (100) square centimeters with no linear dimension greater than twenty (20) centimeters. ( )

03. Beam Quality. ( )

a. The half-value layer (HVL) of the useful beam for a given x-ray tube potential must not be less than the values shown in the following table. If it is necessary to determine such HVL at an x-ray tube potential which is not listed in the table, linear interpolation or extrapolation can be made. ( )

Design Operating Range (kilovolts peak)	Measured Potential (kilovolts peak)	Half-Value Layers (millimeters of aluminum)
Below 50	30	0.3
	40	0.4
	49	0.5
50 to 70	50	1.2
	60	1.3
	70	1.5
Above 70	71	2.1
	80	2.3
	90	2.5
	100	2.7
	110	3.0
	120	3.2

Design Operating Range (kilovolts peak)	Measured Potential (kilovolts peak)	Half-Value Layers (millimeters of aluminum)
	130	3.5
	140	3.8
	150	4.1

b. The above HVL criteria will be considered to have been met if it can be demonstrated that the aluminum equivalent of the total filtration in the primary beam is not less than that shown in the following table:

<b>FILTRATION REQUIRED vs OPERATING VOLTAGE</b>	
Operating Voltage (kVp)	Total Filtration (inherent plus added)
	(Millimeters aluminum equivalent)
Below 50	0.5 Millimeters
50 -- 70	1.5 Millimeters
Above 70	2.5 Millimeters

( )

c. In addition to the requirements of Subsection 204.03.a., all intraoral dental radiographic systems manufactured on and after December 1, 1980, must have a minimum half-value layer not less than one point five (1.5) millimeters aluminum equivalent filtration permanently installed in the useful beam. ( )

d. Beryllium window tubes must have a minimum of zero point five (0.5) millimeter aluminum equivalent filtration permanently installed in the useful beam. ( )

e. For capacitor energy storage equipment, compliance with the requirements of Subsection 204.03 must be determined with the maximum quantity of charge per exposure. ( )

f. The required minimal aluminum equivalent filtration must include the filtration contributed by all materials which are always present between the source and the patient. ( )

g. For x-ray systems which have variable kVp and variable filtration for the useful beam, a device must link the kVp selector with the filter(s) and must prevent an exposure unless the minimum amount of filtration required by Subsection 204.03 is in the useful beam for the given kVp which has been selected. ( )

04. Multiple Tubes. Where two (2) or more radiographic tubes are controlled by one (1) exposure switch, the tube or tubes which have been selected must be clearly indicated prior to initiation of the exposure. This indication shall be both on the x-ray control panel and at or near the tube housing assembly which has been selected. ( )

05. Mechanical Support of Tube Head. The tube housing assembly supports must be adjusted such that the tube housing assembly will remain stable during an exposure unless tube housing movement is a designed function of the x-ray system. ( )

06. Technique Indicators. ( )

a. The technique factors to be used during an exposure must be indicated before the exposure begins.

If automatic exposure controls are used, the technique factors which are set prior to the exposure must be indicated. ( )

b. The requirement of Subsection 204.06.a. may be met by permanent markings on equipment having fixed technique factors. Indication of technique factors must be visible from the operator's position except in the case of spot films made by the fluoroscopist. ( )

07. Warning Label. The control panel containing the main power switch must bear the warning statement, legible and accessible to view: "WARNING: This x-ray unit may be dangerous to patient and operator unless safe exposure factors and operating instructions are observed." ( )

08. Radiation from Components Other Than the Diagnostic Source Assembly. The radiation emitted by a component other than the diagnostic source assembly must not exceed two (2) milliroentgens in one (1) hour at five (5) centimeters from any accessible surface of the component when it is operated in an assembled x-ray system under any conditions for which it was designed. Compliance must be determined by measurements averaged over an area of one hundred (100) square centimeters with no linear dimension greater than twenty (20) centimeters. ( )

**205. FLUOROSCOPIC X-RAY SYSTEMS.**

All fluoroscopic x-ray systems must meet the following requirements: ( )

01. Limitation of Useful Beam. ( )

a. The fluoroscopic tube must not produce x-rays unless the primary protective barrier is in position to intercept the useful beam at all times. ( )

b. The entire cross section of the useful beam must be intercepted by the primary protective barrier of the fluoroscopic image assembly at any Source to Image Distance (SID). ( )

c. Radiation therapy simulation systems will be exempt from all the requirements of Subsections 205.01.a., 205.03, 205.04, and 205.07, provided that: ( )

i. Such systems are designed and used in such a manner that no individual other than the patient is in the x-ray room during periods of time when the system is producing x-rays; and ( )

ii. Systems which do not meet the requirements of Subsection 205.07 are provided with a means of indicating the cumulative time that an individual patient has been exposed to x-rays. Procedures must require in such cases that the timer be reset between examinations. ( )

d. The x-ray field produced by fluoroscopic equipment without image intensification must not extend beyond the entire visible area of the image receptor. This requirement applies to field size for both fluoroscopic procedures and spot filming procedures. In addition: ( )

i. Means must be provided for stepless adjustment of the field size; ( )

ii. The minimum field size at the greatest SID must be equal to or less than five (5) by five (5) centimeters. ( )

e. For image-intensified fluoroscopic equipment, neither the length nor the width of the x-ray field in the plane of the image receptor can exceed the visible area of the image receptor by more than three percent (3%) of the SID. The sum of the excess length and the excess width must be no greater than four percent (4%) of the SID. ( )

i. Means must be provided to permit further limitation of the field. Beam-limiting devices manufactured after May 22, 1979, and incorporated in equipment with a variable SID and/or a visible area of greater than three hundred (300) square centimeters must be provided with means for stepless adjustment of the x-ray field; ( )

ii. All equipment with a fixed SID and a visible area of three hundred (300) square centimeters or less must be provided with either stepless adjustment of the x-ray field or with means to further limit the x-ray field size at the plane of the image receptor to one hundred twenty-five (125) square centimeters or less. Stepless adjustment must, at the greatest SID, provide continuous field sizes from the maximum obtainable to a field size of five (5) by five (5) centimeters or less. ( )

iii. For rectangular x-ray fields used with circular image reception, the error in alignment must be determined along the length and width dimensions of the x-ray field which pass through the center of the visible area of the image receptor. ( )

f. Spot-film devices which are certified components must meet the following additional requirements: ( )

i. Means must be provided between the source and the patient for adjustment of the x-ray field size in the plane of the film to the size of that portion of the film which has been selected on the spot film selector. Such adjustment must be automatically accomplished except when the x-ray field size in the plane of the film is smaller than that of the selected portion of the film. For spot film devices manufactured after June 21, 1979, if the x-ray field size is less than the size of the selected portion of the film, the means for adjustment of the field size must be only at the operator's option; ( )

ii. It must be possible to adjust the x-ray field size in the plane of the film to a size smaller than the selected portion of the film. The minimum field size at the greatest SID must be equal to, or less than, five (5) by five (5) centimeters; ( )

iii. The center of the x-ray field in the plane of the film must be aligned with the center of the selected portion of the film to within two percent (2%) of the SID; and ( )

iv. On spot-film devices manufactured after February 25, 1978, if the angle between the plane of the image receptor and beam axis is variable, means must be provided to indicate when the axis of the x-ray beam is perpendicular to the plane of the image receptor, and compliance must be determined with the beam axis indicated to be perpendicular to the plane of the image receptor. ( )

02. Activation of the Fluoroscopic Tube. X-ray production in the fluoroscopic mode must be controlled by a device which requires continuous pressure by the fluoroscopist for the entire time of any exposure. When recording serial fluoroscopic images, the fluoroscopist must be able to terminate the x-ray exposures at any time; however, means can be provided to permit completion of any single exposure of the series in process. ( )

03. Exposure Rate Limits. ( )

a. Entrance exposure rate - allowable limits: ( )

i. Except as provided below in Subsections 205.03.a.ii. and 205.03.a.iii., the exposure measured at the point where the center of the useful beam enters the patient must not exceed ten (10) roentgens per minute. ( )

ii. When provided with optional high level control, the equipment must not be operable at any combination of tube potential and current which will result in an exposure rate in excess of five (5) roentgens per minute at the points where the center of the useful beam enters the patient, unless the high level control is activated. Special means of activation of high level controls, such as additional pressure applied continuously by the operator, will be required to avoid accidental use. ( )

iii. In addition to the other requirements of Section 205, any new equipment installed after the effective date of these rules which does not incorporate an automatic exposure control, such as automatic brightness control or ionization chamber control, must not be operable at any combination of tube potential and current which will result in an exposure rate in excess of five (5) roentgens per minute at the point where the center of beam enters the patient except during recording of fluoroscopic images. ( )

iv. Compliance with Subsection 205.03 will be determined as follows: ( )

(1) If the source is below the tabletop, exposure rate will be measured one (1) centimeter above the tabletop or cradle; ( )

(2) If the source is above the tabletop, the exposure rate will be measured at thirty (30) centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement; ( )

(3) In a C-arm type of fluoroscope, the exposure rate will be measured thirty (30) centimeters from the input surface of the fluoroscopic imaging assembly; ( )

(4) Movable grids and compression devices must be removed from the useful beam during the measurement. ( )

b. Periodic measurement of entrance exposure rate will be performed as follows: ( )

i. Measurements must be made annually or after any maintenance of the system which might affect the exposure rate; ( )

ii. Results of these measurements must be posted where any fluoroscopist may have ready access to such results while using the fluoroscope. The measurement results must be stated in roentgens per minute and include the technique factors used in determining such results. The name of the person performing the measurements and the date the measurements were performed must be included in the results; ( )

iii. Personnel monitoring devices may be used to perform the measurements required by Subsection 205.03.b.i., provided the measurements are made as described below. ( )

iv. Conditions of periodic measurement of entrance exposure rate are as follows: ( )

(1) The measurement must be made under the conditions that satisfy the requirements of Subsection 205.03.a.iv.; ( )

(2) The kVp must be the kVp typical of clinical use of the x-ray system; ( )

(3) The x-ray system(s) that incorporates automatic exposure control must have sufficient material placed in the useful beam to produce a milliamperage typical of the use of the x-ray system; and ( )

(4) X-ray system(s) that do not incorporate an automatic exposure control must utilize a milliamperage typical of the clinical use of the x-ray system. Materials should be placed in the useful beam when conducting these periodic measurements to protect the imaging system. ( )

04. Radiation Transmitted Through Barrier. ( )

a. The exposure rate resulting from transmission through the primary protective barrier with the attenuation block in the useful beam, combined with radiation from the image intensifier, if provided, must not exceed two (2) milliroentgens per hour at ten (10) centimeters from any accessible surface of the fluoroscopic imaging assembly beyond the plane of the image receptor for each roentgen per minute of entrance exposure rate. ( )

b. For measuring compliance of barrier transmission, the following will apply: ( )

i. The exposure rate resulting from transmission through the primary protective barrier combined with the radiation from the image intensifier will be determined by measurements averaged over an area of one hundred (100) square centimeters with no linear dimension greater than twenty (20) centimeters; ( )

ii. If the source is below the tabletop, the measurement will be made with the input surface of the fluoroscopic imaging assembly, positioned thirty (30) centimeters above the tabletop; ( )



iii. If the source is above the tabletop and the SID is variable, the measurement will be made with the end of the beam-limiting device or spacer as close to the tabletop as it can be placed, provided that it will not be closer than thirty (30) centimeters; ( )

iv. The attenuation block will be positioned between the point of entrance exposure rate measurement and the input surface of the fluoroscopic imaging assembly, and the block will be ten (10) centimeters from the point of entrance exposure rate measurement; ( )

v. Movable grids and compression devices must be removed from the useful beam during the measurement. ( )

05. Indication of Potential and Current. During fluoroscopy and cinefluorography, x-ray tube potential and current will be continuously indicated; and ( )

06. Source-to-Skin Distance. The source-to-skin distance must not be less than: ( )

a. Thirty-eight (38) centimeters on stationary fluoroscopes installed after May 8, 1968; ( )

b. Thirty-five and one-half (35.5) centimeters on stationary fluoroscopes which were in operation prior to May 8, 1968; ( )

c. Thirty (30) centimeters on all mobile fluoroscopes; and ( )

d. Twenty (20) centimeters for image intensified fluoroscopes used for specific surgical application. The user's operating manual must provide precautionary measures to be adhered to during the use of this device; ( )

07. Fluoroscopic Timer. ( )

a. Means must be provided to preset the cumulative on-time of the fluoroscopic tube. ( )

b. The maximum cumulative time of the timing device must not exceed five (5) minutes without resetting. ( )

c. A signal audible to the fluoroscopist, or the appropriate operator, must indicate the completion of any preset cumulative on-time. Such signal shall continue to sound while x-rays are produced until the timing device is reset. ( )

08. Mobile Fluoroscopes. ( )

a. In addition to the other requirements of Section 205, mobile fluoroscopes must provide image intensification. ( )

09. Control of Scattered Radiation. ( )

a. Fluoroscopic table designs, when combined with procedures utilized, must be such that no unprotected part of any staff or ancillary person's body will be exposed to unattenuated scattered radiation which originated from under the table. The attenuation required must be not less than twenty-five hundredths (0.25) mmequivalent. ( )

b. Equipment configuration, when combined with procedures utilized, must be such that no portion of any staff or ancillary person's body, except the extremities, will be exposed to the unattenuated scattered radiation emanating from above the tabletop unless: ( )

i. That individual is at least one hundred twenty (120) cm from the center of the useful beam; ( )

ii. The radiation has passed through not less than twenty-five hundredths (0.25) mm lead equivalent material, such as drapes, Bucky-slot cover, sliding or folding panel, or self-supporting curtains, in addition to any lead equivalency provided by the protective apron referred to in Subsection 203.01.d.; ( )

iii. Upon application to the Radiation Control Agency with adequate justification, exceptions to Subsection 205.09 may be made in some special procedures where a sterile field will not permit the use of the normal protective barriers or where the protective barriers would interfere with the procedures. ( )

**206. RADIOGRAPHIC SYSTEMS OTHER THAN FLUOROSCOPIC, DENTAL INTRAORAL, OR VETERINARIAN SYSTEMS.**

For those radiographic systems, other than fluoroscopic, dental intraoral or veterinarian systems, the following requirements must be met: ( )

01. Beam Limitation. The useful beam must be limited to the area of clinical interest. ( )

a. General Purpose Stationary and Mobile X-ray Systems: ( )

i. In regard to variable x-ray field limitations, there must be provided a means for stepless adjustment of the size of the x-ray field. ( )

ii. Means must be provided for visually defining the perimeter of the x-ray field. The total misalignment of the edges of the visually defined field with the respective edges of the x-ray field along either the length or width of the visually defined field must not exceed two percent (2%) of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the x-ray beam. ( )

iii. The Radiation Control Agency may grant an exemption on noncertified x-ray systems to Subsections 206.01.a.i. and 206.01.a.ii. provided the registrant makes a written application for such exemption and in that application: ( )

(1) Demonstrate it is impractical to comply with Subsections 206.01.a.i. and 206.01.a.ii.; and ( )

(2) The purpose of Subsections 206.01.a.i. and 206.01.a.ii. will be met by other methods. ( )

b. In addition to the requirements of Subsection 206.01.a., all stationary general purpose x-ray systems must meet the following requirements: ( )

i. Means must be provided to indicate when the axis of the x-ray beam is perpendicular to the plane of the image receptor, to align the center of the x-ray field with respect to the center of the image receptor to within two percent (2%) of the SID, and to indicate the SID to within two percent (2%); ( )

ii. The beam-limiting device must numerically indicate the field size in the plane of the image receptor to which it is adjusted; ( )

iii. Indication of field size dimensions and SID's must be specified in inches and/or centimeters, and must be such that aperture adjustments result in x-ray field dimensions in the plane of the image receptor which correspond to those of the image receptor to within two percent (2%) of the SID when the beam axis is perpendicular to the plane of the image receptor. ( )

c. Radiographic equipment designed for only one (1) image receptor size at a fixed SID must be provided with means to limit the field at the plane of the image receptor to dimensions no greater than those of the image receptor, and to align the center of the x-ray field with the center of the image receptor to within two percent (2%) of the SID or must be provided with means to both size and align the x-ray field such that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor. ( )

d. Special purpose x-ray systems will be provided with means to limit the x-ray field in the plane of

the image receptor so that such field does not exceed each dimension of the image receptor by more than two percent (2%) of the SID when the axis of the x-ray beam is perpendicular to the plane of the image receptor. ( )

e. Additionally, special purpose x-ray systems will be provided with means to align the center of the x-ray field with the center of the image receptor to within two percent (2%) of the SID or means must be provided to both size and align the x-ray field such that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor. ( )

f. Requirements of Subsections 206.01.d. and 206.01.e. can be met with a system that meets the requirements for a general purpose x-ray system as specified in Subsection 206.01.a. or, when alignment means are also provided, can be met by compliance with either of the following two (2) provisions: ( )

i. An assortment of removable, fixed-aperture, beam-limiting devices sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed; each such device must have clear and permanent markings to indicate the image receptor size and SID for which it is designed; or ( )

ii. A beam-limiting device having multiple fixed apertures sufficient to meet the requirement for each combination of image receptor size and SID for which the unit is designed. Permanent, clearly legible markings must indicate the image receptor size and SID for which each aperture is designed and must indicate which aperture is in position for use. ( )

02. Radiation Exposure Control Devices. ( )

a. A means, such as a timer, must be provided to terminate the exposure at a preset time interval, at a preset product of current and time, at a preset number of pulses, or at a preset radiation exposure to the image receptor. In addition: ( )

i. Termination of exposure must cause automatic resetting of the timer to its initial setting or to zero (0); ( )

ii. It must be impossible to make an exposure when the timer is set to a zero (0) or "off" position, if either position is provided. ( )

b. X-ray Control (Exposure Switch): ( )

i. A control must be incorporated into each x-ray system such that an exposure can be terminated at any time except for: ( )

(1) Exposure of one-half (1/2) second or less; or ( )

(2) During serial radiography when means must be provided to permit completion of any single exposure of the series in process. ( )

ii. Each x-ray control must be located for stationary x-ray systems in such a way as to be permanently mounted in a protected area so that the operator is required to remain in that protected area during the entire exposure. ( )

iii. X-ray controls for mobile and portable x-ray systems: ( )

(1) If used for greater than one (1) week in one (1) location, such as one (1) room or suite, must meet the requirements of Subsections 206.02.a. and 206.02.b.; ( )

(2) If used for more than one (1) hour and less than one (1) week at one (1) location, such as one (1) room, or suite, must meet the requirement of Subsection 206.02.b.iii.(1) or be provided with a six and one-half (6.5) foot high protective barrier which is placed at least six (6) feet from the tube housing assembly and at least six (6) feet from the patient; ( )

(3) If used to make an exposure of only one (1) patient at the use location, must meet the requirement of Subsections 206.02.b.iii.(1) or 206.02.b., or be provided with a method of control which will permit the operator to be at least twelve (12) feet from the tube head assembly during an exposure. ( )

iv. The x-ray control must provide visual indication observable at or from the operator's protected position whenever x-rays are produced. In addition, a signal audible to the operator must indicate that the exposure has terminated. ( )

c. When an automatic exposure control, such as a phototimer, is provided: ( )

i. Indication must be made on the control panel when this mode of operation is selected; ( )

ii. When the x-ray tube potential is equal to or greater than fifty (50) kVp, the minimum exposure time for field emission equipment rated for pulsed operation must be equal to or less than a time interval equivalent to two (2) pulses; ( )

iii. The minimum exposure time for all equipment, other than that specified in Subsection 206.02.c.ii., must be equal to or less than one-sixtieth (1/60) second or a time interval required to deliver five (5) mAs, whichever is greater; ( )

iv. Either the product or peak x-ray tube potential, current and exposure time must be limited to not more than sixty (60) kW per exposure or the product of x-ray tube current and exposure time must be limited to not more than six hundred (600) mAs per exposure, except when the x-ray tube potential is less than fifty (50) kVp, in which case the product of x-ray tube current and exposure time must be limited to not more than two thousand (2000) mAs per exposure; ( )

v. A visible signal must indicate when an exposure has been terminated at the limits described in Subsection 206.02.c.iv., and manual resetting must be required before further automatically timed exposures can be made. ( )

d. When four (4) timer tests are performed, at identical timer settings, the average time period (T) will be greater than five (5) times the maximum period (Tmax) less the minimum period (Tmin). T must be equal to or less than five-tenths (0.5) seconds. ( )

03. Source-to-Skin Distance. All radiographic systems must be provided with a durable, securely fastened means to limit the source-to-skin distance to not less than thirty (30) centimeters. This can be met when the collimator or cone provides the required limits. ( )

04. Exposure Reproducibility. The coefficient of variation of exposure must not exceed one-twentieth (0.05) when all technique factors are held constant. This requirement will be deemed to have been met if, when four (4) exposures are made at identical technique factors, the value of the average exposure (E) is greater than or equal to five (5) times the maximum exposure (Emax) minus the minimum exposure (Emin):  $E > 5 (E_{max} - E_{min})$ . ( )

05. Standby Radiation From Capacitor Energy Storage Equipment. Radiation emitted from the x-ray tube when the exposure switch or timer is not activated must not exceed a rate of two (2) milliroentgens per hour at five (5) centimeters from any accessible surface of the diagnostic source assembly, with the beam-limiting device fully open. ( )

06. Additional Requirements Applicable to Certified Systems Only. Diagnostic x-ray systems incorporating one (1) or more certified components will be required to comply with the following requirements which relate to that certified component in addition to other applicable requirements of these rules. ( )

a. When the equipment is operated on an adequate power supply as specified by the manufacturer in accordance with the requirements of applicable federal standards, the estimated coefficient of variation of radiation exposures must be no greater than five one-hundredths (0.05). ( )

b. When the equipment allows a choice of x-ray tube current settings and is operated on a power supply as specified by the manufacturer in accordance with the requirements of applicable federal standards, for any fixed x-ray to be potential within the range of forty percent (40%) to one hundred percent (100%) of the maximum rating, the average ratios of exposure to the indicated milliamperere-seconds product, mR/mAs, obtained at any two (2) consecutive tube current settings must not differ by more than  $[X_1 - X_2] < 0.10(X_1 \text{ Plus } X_2)$ , where  $X_1$  and  $X_2$  are the average mR/mAs (microcoulomb/kilogram per mAs) one-tenth (0.10) times their sum. ( )

c. Deviation of technique factors from indicated values must not exceed the limits provided for that system by its manufacturer. ( )

d. Beam Limitation for Stationary and Mobile General Purpose X-ray Systems. ( )

i. There must be provided a means of stepless adjustment of the size of the x-ray field. The minimum field size at an SID of one hundred (100) centimeters must be equal to or less than five (5) by five (5) centimeters. ( )

ii. When a light localizer is used to define the x-ray field, it must provide an average illumination of not less than one hundred sixty (160) lux, that is, fifteen (15) footcandles, at one hundred (100) centimeters or at the maximum SID, whichever is less. The average illumination will be based upon measurements made in the approximate center of each quadrant of the light field. Radiation therapy simulation systems manufactured on or after May 27, 1980, are exempt from this requirement. ( )

iii. The edge of the light field at one hundred (100) centimeters or at the maximum SID, whichever is less, must have a contrast ratio, corrected for ambient lighting, of not less than four (4) in the case of beam-limiting devices designed for use on stationary equipment, and a contrast ratio of not less than three (3) in the case of beam-limiting devices designed for use on mobile equipment. The contrast ratio is defined in  $I_1 I_2$  where  $I_1$  is the illumination three (3) millimeters from the edge of the light field toward the center of the field; and  $I_2$  is the illumination three (3) millimeters from the edge of the light field away from the center of the field. Compliance will be determined with a measuring instrument-aperture of one (1) millimeter in diameter. ( )

e. Beam limitation for portable x-ray systems must meet the field limitation requirements of Subsection 206.01.a. and 206.06.f. ( )

f. Field Limitation and Alignment on Stationary General Purpose X-ray Systems. For stationary, general purpose x-ray systems which contain a tube housing assembly, an x-ray control and, for those systems so equipped, a table, all certified in accordance with 21 CFR 1020.30(c): ( )

i. Means must be provided for positive beam limitation which will, at the SID for which the device is designed, either cause automatic adjustment of the x-ray field in the plane of the image receptor to the image receptor size within five (5) seconds after insertion of the image receptor or, if adjustment is accomplished automatically in a time interval greater than five (5) seconds or is manual, will prevent production of x-rays until such adjustment is completed. At SID's at which the device is not intended to operate, the device will prevent the production of x-rays. ( )

ii. The x-ray field size in the plane of the image receptor, whether automatically or manually adjusted, will be such that neither the length nor the width of the x-ray field differs from that of the image receptor by greater than three percent (3%) of the SID and that the sum of the length and width differences without regard to sign be no greater than four percent (4%) of the SID when the equipment indicates that the beam axis is perpendicular to the plane of the image receptor. ( )

iii. The radiographic system must be capable of operation, at the discretion of the operator, such that the field size at the image receptor can be adjusted to a size smaller than the image receptor. The minimum field size at a distance of one hundred (100) centimeters must be equal to or less than five (5) by five (5) centimeters. Return to positive beam limitation as defined in Subsections 206.06.f.i. and 206.06.f.ii. will occur upon a change in image receptor. ( )

iv. Positive beam limitation can be bypassed when radiography is conducted which does not use the

cassette tray or permanently mounted vertical cassette holder, or when either the beam axis or table angulation is not within ten (10) degrees of the horizontal or vertical during any part of the exposure, or during stereoscopic radiography. If the bypass mode is provided, return to positive beam limitation will be automatic. ( )

v. A capability can be provided for overriding positive beam limitation in the event of system failure or to perform special procedures which cannot be performed in the positive mode. If so provided, a key will be required to override the positive mode. It must be impossible to remove the key while the positive mode is overridden. ( )

g. Timers. Except for dental panoramic systems, termination of exposure must cause automatic resetting of the timer to its initial setting or to "zero" (0). ( )

**207. INTRAORAL DENTAL RADIOGRAPHIC SYSTEMS.**

In addition to the provisions of Sections 203 and 204 the requirements of Section 207 apply to x-ray equipment and associated facilities used for dental radiography. (See Section 206 for criteria for extraoral dental radiographic systems.) ( )

01. Source-to-Skin Distance. X-ray systems designed for use with an intraoral image receptor must be provided with means to limit source-to-skin distance to not less than: ( )

- a. Eighteen (18) centimeters if operable above fifty (50) kilovolts peak; ( )
- b. Ten (10) centimeters if not operable above fifty (50) kilovolts peak. ( )

02. Field Limitation. ( )

a. Radiographic systems designed for use with an intraoral image receptor must be provided with means to limit the x-ray beam such that: ( )

i. If the minimum source-to-skin distance (SSD) is eighteen (18) centimeters or more, the x-ray field, at the minimum SSD, must be containable in a circle having a diameter of no more than seven (7) centimeters; and ( )

ii. If the minimum SSD is less than eighteen (18) centimeters, the x-ray field, at the minimum SSD, must be containable in a circle having a diameter of no more than six (6) centimeters. ( )

b. An open ended shielded position indicating device must be used. The shielding must be equivalent to that required for the diagnostic source assembly in Subsection 204.03. ( )

c. Units installed previous to the effective date of these rules will be exempted from Subsection 207.02.b. ( )

03. Timers. A means, such as a timer, must be provided to terminate the exposure at a preset time interval, at a preset product of current and time, at a preset number of pulses, or at a preset radiation exposure to the image receptor. In addition: ( )

a. Termination of exposure must cause automatic resetting of the timer to its initial setting or to zero (0); and ( )

b. It must not be possible to make an exposure when the timer is set to a zero (0) or "off" position, if either position is provided; and ( )

c. When four (4) timer tests taken at identical timer settings are performed, the average time period (T) must be greater than five (5) times the maximum period (Tmax) less the minimum period (Tmin). T must be less than or equal to five (5) seconds. ( )

04. X-ray Control (Exposure Switch). ( )

- a. A control must be incorporated into each x-ray system such that an exposure can be terminated at any time, except for exposures of one-half (1/2) second or less. ( )
- b. Each x-ray control must be located in such a way as to meet the following criteria: ( )
- i. Stationary x-ray systems must have the control switch permanently mounted in a protected area so that the operator is required to remain in that protected area during the entire exposure; and ( )
- ii. Mobile and portable x-ray systems which are: ( )
- (1) Used for greater than one (1) week in one (1) location must meet the requirements of Subsection 207.04.b.i.; or ( )
- (2) Used for more than one (1) hour and less than one (1) week at one (1) location must meet the requirements of Subsection 207.04.b.ii.(1) or be provided with a six and one-half (6.5) foot high protective barrier which is placed at least six (6) feet from the tube housing assembly and at least six (6) feet from the patient; or ( )
- (3) Used to make an exposure(s) of only one (1) patient at the use location must meet the requirement of Subsections 207.04.b.ii.(1) or 207.04.b.ii.(2), or be provided with a method of control which will permit the operator to be at least twelve (12) feet from the tube head assembly during an exposure. ( )
- c. The x-ray control must provide visual indication observable at or from the operator's protected position whenever x-rays are produced. In addition, a signal audible to the operator must indicate that the exposure has terminated. ( )
- d. When dental units are installed in adjacent rooms or areas, protective barriers must be provided between the rooms or areas. ( )
05. Exposure Reproducibility. The exposure produced must be reproducible to within the following criteria: When all technique factors are held constant, the coefficient of variation must not exceed one-tenth (0.10). This will be deemed to have been met when four (4) exposures at identical technique factors are made and the value of the average exposure (E) is equal to or greater than five (5) times the maximum exposure (E<sub>max</sub>) minus the minimum exposure (E<sub>min</sub>)  $E > 5 (E_{max} - E_{min})$ . ( )
06. Operating Controls. ( )
- a. Patient and film holding devices must be used when the techniques permit. The safety rules, required by Subsection 203.01, must list individual projections where holding devices cannot be utilized. ( )
- b. Neither the tube housing nor the position indicating device can be hand held during an exposure. ( )
- c. The x-ray system must be arranged and operated in such a manner that the useful beam at the patient's skin does not exceed the dimensions specified in Subsection 207.02.a. ( )
- d. Dental fluoroscopy without image intensification is prohibited. ( )
07. Additional Requirements Applicable to Certified Systems Only. Only diagnostic x-ray systems incorporating one (1) or more certified components will be required to comply with the following requirements which relate to that certified component in addition to other applicable requirements of these rules. ( )
- a. Regarding reproducibility, Subsection 207.07.b. will apply when the equipment is operated on an adequate power supply as specified by the manufacturer. ( )
- b. For any specific combination of selected technique factors, the estimated coefficient of variation or

radiation exposures must be no greater than five one-hundredths (0.05). ( )

c. Regarding linearity, Subsection 207.07.d. applies when the equipment allows a choice of x-ray tube current settings and is operated on a power supply as specified by the manufacturer in accordance with the requirements of 21 CFR 1000 for any fixed x-ray tube potential within the range of forty percent (40%) to one hundred percent (100%) of the maximum rated. ( )

d. The average ratios of exposure to the indicated milliamperere-seconds product (mR/mAs) obtained at any two (2) consecutive tube current settings must not differ by more than one-tenth (0.10) times their sum. ( )

e. To insure accuracy, deviation of technique factors from indicated values must not exceed the limits provided for that system by its manufacturer. ( )

f. All certified dental x-ray systems manufactured on and after December 1, 1980, must have a minimum half-value layer not less than one and one-half (1.5) millimeters aluminum equivalent. Systems operating above, seventy (70) kVp are subject to the filtration requirements of Subsection 204.03.a. ( )

**208. VETERINARY MEDICINE RADIOGRAPHIC INSTALLATIONS.**

01. Equipment. ( )

a. The protective tube housing must be of diagnostic type. ( )

b. Diaphragms or cones must be provided for collimating the useful beam to the area of clinical interest and must provide the same degree of protection as is required of the housing. ( )

c. The total filtration permanently in the useful beam must not be less than five-tenths (0.5) millimeters aluminum equivalent for machines operating up to fifty (50) kVp, one and one-half (1.5) millimeters aluminum equivalent for machines operating between fifty (50) to seventy (70) kVp, and two and one-half (2.5) millimeters aluminum equivalent for machines operating above seventy (70) kVp. ( )

d. A device must be provided to terminate the exposure after a preset time or exposure. ( )

e. A dead-man type of exposure switch must be provided, together with an electrical cord of sufficient length, so that the operator can stand out of the useful beam and at least six (6) feet from the animal during all x-ray exposures. ( )

02. Structural Shielding. All wall, ceiling, and floor areas will be equivalent to or provided with applicable protective barriers as required in Subsections 110.01, 110.03, and 110.04. ( )

03. Operating Procedures. ( )

a. The operator must stand well away from the useful beam and the animal during radiographic exposures. ( )

b. No individual other than the operator can be in the x-ray room while exposures are being made unless such individual's assistance is required. ( )

c. When an animal must be held in position during radiography, mechanical supporting or restraining devices can be used. If the animal must be held by an individual, that individual must be protected with appropriate shielding devices, such as protective gloves and apron, and he must be so positioned that no part of his body will be struck by the useful beam. The exposure of any individual used for this purpose must be monitored. ( )

04. Veterinary Medicine Therapeutic X-ray Installations. All of the requirements for equipment, installation, construction and operation contained in Sections 209 and 210 are effective as applicable to veterinary practice. ( )



**209. THERAPEUTIC X-RAY INSTALLATIONS.**

01. Therapeutic X-Ray Systems of Less Than One (1) MeV. ( )
- a. Equipment requirements are as follows: ( )
- i. When the tube is operated at its leakage technique factors, the leakage radiation must not exceed the value specified at the distance specified for the classification of that x-ray system. ( )
- (1) In contact therapy systems leakage radiation shall not exceed one hundred (100) milliroentgens per hour at five (5) centimeters from the surface of the tube housing assembly. ( )
- (2) In zero (0) to one hundred fifty (150) kVp systems which were manufactured or installed prior to the effective date of these rules must have a leakage radiation which does not exceed one (1) roentgen in one (1) hour at one (1) meter from the source. ( )
- (3) In zero (0) to one hundred fifty (150) kVp systems which are manufactured on or after the effective date of these rules must have a leakage radiation which does not exceed one hundred (100) milliroentgens in one (1) hour at one (1) meter from the source. ( )
- (4) In one hundred fifty one (151) to nine hundred ninety nine (999) kVp systems the leakage radiation must not exceed one (1) roentgen in one (1) hour at one (1) meter from the source except systems that operate in excess of five hundred (500) kVp may have a leakage radiation at one (1) meter from the source not to exceed one-tenth of one percent (0.1%) of the useful beam one (1) meter from the source. ( )
- ii. Permanent fixed diaphragms or cones used for limiting the useful beam must provide the same or a higher degree of protection as required for the tube housing assembly. ( )
- iii. Removable and adjustable beam limiting devices are as follows: ( )
- (1) Removable beam limiting devices must, for the portion of the useful beam to be blocked by these devices, transmit not more than one percent (1%) of the useful beam at the maximum kilovoltage and maximum treatment filter. This requirement does not apply to auxiliary blocks or materials placed in the useful beam to shape the useful beam to the individual patient. ( )
- (2) Adjustable beam limiting devices installed after the effective date of these rules must meet the requirements of Subsection 209.01.a.iii.(1). ( )
- (3) Adjustable beam limiting devices installed before the effective date of these rules must, for the portion of the x-ray beam to be blocked by these devices, transmit not more than five percent (5%) of the useful beam at the maximum kilovoltage and maximum treatment filter. ( )
- iv. The filter system must be so designed that: ( )
- (1) The filters cannot be accidentally displaced at any possible tube orientation; ( )
- (2) The radiation at five (5) centimeters from the filter insertion slot opening does not exceed thirty (30) roentgens per hour under any operating conditions; and ( )
- (3) Each filter is marked as to its material of construction and its thickness. For wedge filters, the wedge angle must appear on the wedge or wedge tray. ( )
- v. The tube housing assembly must be capable of being immobilized for stationary treatments. ( )
- vi. The tube housing assembly must be so marked that it is possible to determine the location of the focal spot to within five (5) millimeters, and such markings must be readily accessible for use during calibration procedures. ( )

vii. Contact therapy tube housing assemblies must have a removable shield of at least five-tenths (0.5) millimeter lead equivalency at one hundred (100) kVp that can be positioned over the entire useful beam exit port during periods when the beam is not in use. ( )

viii. Systems of greater than one hundred fifty (150) kVp manufactured after the effective date of these rules must be provided with a beam monitor system which: ( )

(1) Has the detector of the monitor system interlocked to prevent incorrect positioning; ( )

(2) Does not allow irradiation until a preselected value of exposure has been made at the treatment control panel; ( )

(3) Independently terminates irradiation when the preselected exposure has been reached; ( )

(4) Is so designed that, in the event of a system malfunction or electrical power failure, the dose administered to a patient prior to the system malfunction or power failure can be accurately determined; ( )

(5) Has a display at the control panel from which the dose at a reference point in soft tissue can be calculated; ( )

(6) Has a control panel display which maintains the administered dose reading until intentionally reset to zero (0); and ( )

(7) Has a control panel display which does not have scale multiplying factors and utilizes a design such that increasing dose is displayed by increasing numbers. ( )

ix. The requirements for a timer are: ( )

(1) A timer which has a display must be provided at the treatment control panel. The timer must have a pre-set time selector and an elapsed time indicator. ( )

(2) The timer must be a cumulative timer which activates with the production of radiation and retains its reading after irradiation is interrupted or terminated. After irradiation is terminated and before irradiation can be reinitiated, it must be necessary to reset the elapsed time indicator to zero (0). ( )

(3) The timer must terminate irradiation when a preselected time has elapsed if any dose monitoring system present has not previously terminated irradiation. ( )

(4) The timer must permit accurate presetting and determination of exposure times as short as one (1) second. ( )

(5) The timer must not permit an exposure if set at zero (0). ( )

(6) The timer must not activate until the shutter is opened when irradiation is controlled by a shutter mechanism. ( )

x. The control panel, in addition to the displays required in other provisions of Section 209 must have: ( )

(1) An indication of whether electrical power is available at the control panel and if activation of the x-ray tube is possible; ( )

(2) An indication of whether x-rays are being produced; ( )

(3) Means for indicating x-ray tube potential and current; ( )

- (4) Means for terminating an exposure at any time; ( )
- (5) A locking device which will prevent unauthorized use of the x-ray system; and ( )
- (6) For x-ray systems manufactured after the effective date of these rules, a positive display of specific filter(s) in the beam. ( )
- xi. When a control panel may energize more than one (1) x-ray tube: ( )
  - (1) It must be possible to activate only one (1) x-ray tube at any time. ( )
  - (2) There must be an indication at the control panel identifying which x-ray tube is energized. ( )
  - (3) There must be an indication at the tube housing assembly when that tube is energized. ( )
- xii. There must be means of determining the source-to-skin distance (SSD) to within one (1) centimeter. ( )
- xiii. Unless it is possible to bring the x-ray output to the prescribed exposure parameters within five (5) seconds, the beam must be automatically attenuated by a shutter having a lead equivalency not less than that of the tube housing assembly. In addition: ( )
  - (1) After the unit is at operating parameters, the shutter must be controlled electrically by the operator from the control panel; and ( )
  - (2) An indication of shutter position must appear at the control panel. ( )
- xiv. Each x-ray system equipped with a beryllium or other low-filtration window must be clearly labeled as such upon the tube housing assembly and at the control panel. ( )
- 02. Facility Design Requirement for X-Ray Systems Capable of Operating Above Fifty (50) kVp. ( )
  - a. Provision must be made for two-way aural communication between the patient and the operator at the control panel. However, where excessive noise levels or treatment requirements make aural communication impractical, other methods of communication must be used. ( )
  - b. The requirements for viewing systems are as follows: ( )
    - i. Windows, mirrors, closed-circuit television, or an equivalent system must be provided to permit continuous observation of the patient during irradiation and must be so located that the operator can observe the patient from the control panel. ( )
    - ii. When the primary viewing system is by electronic means, an alternate viewing system, which may be electronic, must be available for use in the event of failure of the primary viewing system. ( )
  - c. Additional requirements for X-ray systems capable of operation above one hundred fifty (150) kVp. ( )
    - i. All protective barriers must be fixed except for entrance door or beam interceptors. ( )
    - ii. The control panel must be located outside the treatment room. ( )
    - iii. Entrance interlocks shall be provided such that all entrance doors must be closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it must not be possible to restore the machine to operation without closing the door and reinitiating irradiation by manual action at the control panel. ( )

iv. When any door referred to in Subsection 209.02.c.iii. is opened while the x-ray tube is activated, the exposure at a distance of one (1) meter from the source shall be reduced to less than one hundred (100) milliroentgens per hour. ( )

03. Operating Procedures. ( )

a. X-ray systems must not be left unattended unless the system is secured against unauthorized use. ( )

b. When a patient must be held in position for radiation therapy, mechanical supporting or restraining devices must be used. ( )

c. The tube housing assembly must not be held by hand during operation unless the system is designed to require such holding and the peak tube potential of the system does not exceed fifty (50) kVp. In such cases, the holder must wear protective gloves and apron of not less than five-tenths (0.5) mm lead equivalency at one hundred (100) kVp. ( )

d. No individual other than the patient may be in the treatment room unless such individual is protected by a barrier sufficient to meet the requirements of Section 110. No individual other than the patient may be in the treatment room during exposures from x-ray systems operating above one hundred fifty (150) kVp. ( )

e. The x-ray system must not be used in the administration of radiation therapy unless the requirements of Subsections 209.03 and 209.05.e. have been met. ( )

04. Surveys. ( )

a. All new facilities, and existing facilities not previously surveyed, must have a survey made by, or under the direction of a qualified expert. In addition, such surveys must be done after any change in the facility or equipment which might produce a significant increase in radiation hazard. ( )

b. The registrant must obtain a written report of the survey from the qualified expert and a copy of the report must be transmitted by the registrant to the Radiation Control Agency within thirty (30) days of receipt of the report. ( )

c. The survey and report must indicate all instances where the installation, in the opinion of the qualified expert, is in violation of applicable rules. ( )

05. Calibrations. ( )

a. The calibration of an x-ray system must be performed at intervals not to exceed one (1) year and after any change or replacement of components which could cause a change in the radiation output. ( )

b. The calibration of the radiation output of the x-ray system must be performed by or under the direction of a qualified expert who is physically present at the facility during such calibration. ( )

c. Calibration of the radiation output of an x-ray system must be performed with a calibrated dosimetry system. The calibration of such system must be traceable to a national standard. The system must have been calibrated within the preceding two (2) years. ( )

d. The calibration must be such that the dose at a reference point in soft tissue can be calculated to within an uncertainty of five percent (5%). ( )

e. The calibration of the x-ray system may include, but not be limited to, the following determinations: ( )

i. Verification that the x-ray system is operating in compliance with the design specifications; ( )

- ii. The exposure rates as a function of field size, technique factors, filter, and treatment distance used; ( )
  - iii. The degree of congruence between the radiation field and the field indicated by the localizing device if such device is present; and ( )
  - iv. An evaluation of the uniformity of the largest radiation field used. ( )
  - f. Records of calibration must be maintained by the registrant for five (5) years after completion of the calibration. ( )
  - g. A copy of the most recent x-ray system calibration must be available at or in the area of the control panel. ( )
06. Spot Checks. Spot checks must be performed on x-ray systems capable of operation at greater than one hundred fifty (150) kVp. Such spot-checks must meet the following requirements: ( )
- a. The spot-check procedures must be in writing and shall have been developed by a qualified expert. A copy of the procedures must be submitted to the Radiation Control Agency prior to its implementation. ( )
  - b. If a qualified expert does not perform the spot-check measurement, the results of the spot-check measurements must be reviewed by a qualified expert within fifteen (15) days. ( )
  - c. The spot-check procedures must specify the frequency at which tests or measurements are to be performed. The spot-check procedures must specify that the spot-checks shall be performed during the calibration specified in Subsection 209.05. The acceptable tolerance for each parameter measured in the spot-check when compared to the value for that parameter determined in the calibration specified in Subsection 209.05 must be stated. ( )
  - d. The cause for a parameter exceeding a tolerance set by the qualified expert must be investigated and corrected before the system is used for patient irradiation. ( )
  - e. Whenever a spot-check indicates a significant change in the operating characteristics of a system, as specified in the qualified expert's spot-check procedures, the system must be recalibrated as required in Subsection 209.05. ( )
  - f. Records of spot-check measurements must be maintained by the registrant for two (2) years after completion of the spot-check measurements and any necessary corrective actions. ( )
  - g. Where a spot-check involves a radiation measurement, such measurement must be obtained using a system satisfying the requirements of Subsection 209.05 or which has been intercompared with a system meeting those requirements within the previous year. ( )

**210. X-RAY AND ELECTRON THERAPY SYSTEMS WITH ENERGIES OF ONE(1) MeV AND ABOVE.**

Section 350, except Subsections 354.06.c. and 354.06.d., shall apply to medical facilities using therapy systems with energies one (1) MeV and above. ( )

- 01. Requirements for Equipment. ( )
  - a. Leakage radiation to the patient area. ( )
    - i. Equipment built after the effective date of these rules shall meet the following requirements: ( )
      - (1) For operating conditions producing maximum leakage radiation, the absorbed dose in rads due to

leakage radiation, including x-rays, electrons, and neutrons, at any point in a circular plane of two (2) meters radius centered on and perpendicular to the central axis of the beam at the isocenter or normal treatment distance and outside the maximum useful beam size must not exceed one-tenth of one percent (0.1%) of the maximum absorbed dose in rads of the unattenuated useful beam measured at the point of intersection of the central axis of the beam and the plane surface. Measurements excluding those for neutrons may be averaged over an area up to but not exceeding one hundred (100) square centimeters at the positions specified. Measurements of the portion of the leakage radiation dose contributed by neutrons may be averaged over an area up to but not exceeding two hundred (200) square centimeters.  
( )

(2) For each system, the registrant must determine or obtain documentation from the manufacturer the leakage radiation existing at the positions specified in Subsection 210.01.a.i.(1) for the specified operating conditions. Records on leakage radiation measurements must be maintained for inspection by the Radiation Control Agency.  
( )

ii. Equipment installed before the effective date of these rules shall meet the following requirements:  
( )

(1) For operating conditions producing maximum leakage radiation, the absorbed dose in rads due to leakage radiation excluding neutrons at any point in a circular plane of two (2) meters radius centered on a perpendicular to the central axis of the beam one (1) meter from the virtual source, and outside the maximum size useful beam, shall not exceed one-tenth of one percent (0.1%) of the maximum absorbed dose in rads of the unattenuated useful beam measured at the point of intersection of the central axis of the beam and the surface of the circular plane. Measurements shall be averaged over an area up to but not exceeding one hundred (100) square centimeters at the positions specified.  
( )

(2) For each system, the registrant shall determine or obtain documentation from the manufacturer the leakage radiation existing at the positions specified in Subsection 210.01.a.i.(1) for the specified operating conditions. Records on radiation leakage must be maintained for inspection by the Radiation Control Agency.  
( )

b. Leakage radiation outside the patient area for equipment installed after the effective date of these rules:  
( )

i. The absorbed dose in rads due to leakage radiation except in the area specified in Subsection 210.01.a.i.(1) when measured at any point one (1) meter from the path of the charged particle, before the charged particle strikes the target or window, must not exceed one-tenth of one percent (0.1%) for x-ray leakage nor five hundredths of one percent (0.05%) for neutron leakage of the maximum absorbed dose in rads of the unattenuated useful beam measured at the point of intersection of the central axis of the beam and the circular plane specified in Subsection 210.01.a.i.(1).  
( )

ii. The registrant must determine or obtain documentation from the manufacturer, the actual leakage radiation existing at the positions specified in Subsection 210.01.b.i. for specified operating conditions. Radiation measurements excluding neutrons must be averaged over an area up to but not exceeding one hundred (100) square centimeters. Neutron measurements may be averaged over an area up to but not exceeding two hundred (200) square centimeters.  
( )

c. Adjustable or interchangeable beam limiting devices must be provided, and such devices must transmit no more than two percent (2%) of the useful beam at the normal treatment distance for the portion of the useful beam which is to be attenuated by the beam limiting device. The neutron component of the useful beam shall not be included in this requirement.  
( )

d. The requirements for filters are as follows:  
( )

i. Each filter which is removable from the system must be clearly marked with an identification number. Documentation available at the control panel must contain a description of the filter. For wedge filters, the wedge angle shall appear on the wedge or wedge tray.  
( )

ii. If the absorbed dose rate data required by Subsection 210.01.p. relates exclusively to operation with

a field flattening or beam scattering filter in place, such filter must be readily removable only by the use of tools. ( )

iii. For equipment installed after the effective date of these rules which utilizes a system of wedge filters, interchangeable field flattening filters, or interchangeable beam scattering filters: ( )

( ) (1) Irradiation must not be possible until a selection of a filter has been made at the treatment control panel;

(2) An interlock system must be provided to prevent irradiation if the filter selected is not in the correct position; ( )

(3) A display must be provided at the treatment control panel showing the filter(s) in use; and ( )

(4) An interlock must be provided to prevent irradiation if any filter selection operation carried out in the treatment room does not agree with the filter selection operation carried out at the treatment control panel. ( )

e. The registrant must determine, or obtain from the manufacturer, data sufficient to assure that the following beam quality requirements are met: ( )

i. The absorbed dose resulting from x-rays in a useful electron beam at a point on the central axis of the beam ten (10) centimeters greater than the practical range of the electrons must not exceed the values stated in the following table. Linear interpolation shall be used for values not stated. ( )

Maximum Energy of Electron Beam in MeV	X-Ray Absorbed Dose as a Fraction of Maximum Absorbed Dose
1	0.03
15	0.05
35	0.10
50	0.20

ii. Compliance with Subsection 210.01.e.i. may be determined using: ( )

(1) A measurement within a phantom with the incident surface of the phantom at the normal treatment distance and normal to the central axis of the beam; ( )

(2) The largest field size available which does not exceed fifteen (15) by fifteen (15) centimeters; and ( )

(3) A phantom whose cross-sectional dimensions exceed the measurement radiation field by at least five (5) centimeters and whose depth is sufficient to perform the required measurement. ( )

iii. The absorbed dose at a surface located at the normal treatment distance, at the point of intersection of that surface with the central axis of the useful beam during x-ray irradiation, must not exceed the limits stated in the following table. Linear interpolation shall be used for values not stated:

Maximum Photon Energy in MV	Absorbed Dose at the Surface as a Fraction of the Maximum Absorbed Dose
1	0.80

Maximum Photon Energy in MV	Absorbed Dose at the Surface as a Fraction of the Maximum Absorbed Dose
2	0.70
5	0.60
15	0.50
35	0.40
50	0.20

- ( )
- iv. Compliance with Subsection 210.01.e.ii. may be determined by measurements made: ( )
- (1) With a phantom using an instrument which will allow extrapolation to the surface absorbed dose; ( )
- (2) Using a phantom whose size and placement meet the requirements of Subsection 210.01.e.ii. ( )
- (3) After removal of all beam modifying devices which can be removed without the use of tools, except for beam scattering or beam flattening filters; and ( )
- (4) Using the largest field size available which does not exceed fifteen (15) by fifteen (15) centimeters. ( )
- v. The registrant must determine, or obtain from the manufacturer, the maximum percentage absorbed dose in the useful beam due to neutrons, excluding stray neutron radiation, for specified operating conditions. ( )
- f. All therapy systems must be provided with radiation detectors in the radiation head. ( )
- i. Equipment installed after the effective date of these rules must be provided with at least two (2) radiation detectors. The detectors must be incorporated into two (2) separate dose monitoring systems. ( )
- ii. Equipment installed before the effective date of these rules must be provided with at least one (1) radiation detector. This detector must be incorporated into a primary dose monitoring system. ( )
- iii. The detector and the system into which that detector is incorporated must meet the following requirements. ( )
- (1) Each detector must be removable only with tools and shall be interlocked to prevent incorrect positioning. ( )
- (2) Each detector must form part of a dose monitoring system from whose readings in dose monitor units the absorbed dose at a reference point in the treatment volume can be calculated. ( )
- (3) Each dose monitoring system must be capable of independently monitoring, interrupting, and terminating irradiation. ( )
- (4) For equipment installed after the effective date of these rules, the design of the dose monitoring systems must assure that the malfunction of one system does not affect the correction functioning of the second system, and the failure of any element common to both systems which could affect the correct function of both systems terminates irradiation. ( )
- (5) Each dose monitoring system must have a legible display at the treatment control panel. For



equipment installed after the effective date of these rules, each display must maintain a reading until intentionally reset to zero (0); have only one scale and no scale multiplying factors, utilize a design such that increasing dose is displayed by increasing numbers, and shall be so designed that, in the event of an overdose of radiation, the absorbed dose may be accurately determined; and in the event of power failure, the dose monitoring information required in Subsection 210.01.f.iii.(5) displayed at the control panel at the time of failure will be retrievable in at least one (1) system for a twenty (20) minute period of time. ( )

g. In equipment installed after the effective date of these rules inherently capable of producing useful beams with asymmetry exceeding five percent (5%), the asymmetry of the radiation beam in two (2) orthogonal directions must be monitored before the beam passes through the beam limiting device. Facilities must be provided so that, if the difference in dose rate between one (1) region and another region symmetrically displaced from the central axis of the beam exceeds five percent (5%) of the central axis dose rate, indication of this condition is made at the control panel, and if this difference exceeds ten percent (10%), the irradiation is terminated. ( )

h. Selection and display of dose monitor units. ( )

i. Irradiation must not be possible until a selection of a number of dose monitor units has been made at the treatment control panel. ( )

ii. The preselected number of dose monitor units must be displayed at the treatment control panel until reset manually for the next irradiation. ( )

iii. After termination of irradiation, it must be necessary to reset the dosimeter display to zero (0) before subsequent treatment can be initiated. ( )

iv. For equipment installed after the effective date of these rules after termination of irradiation, it must be necessary to manually reset the preselected dose monitor units before irradiation can be initiated. ( )

i. Termination of irradiation by the dose monitoring system or systems during stationary beam therapy. ( )

i. Each primary system must terminate irradiation when the preselected number of dose monitor units has been detected by the system. ( )

ii. If original design of the equipment included a second dose monitoring system, that system must be capable of terminating irradiation when not more than fifteen percent (15%) or forty (40) dose monitor units above the preselected number of dose monitor units set at the control panel has been detected by the second dose monitoring system. ( )

iii. For equipment installed after the effective date of these rules, a second dose monitoring system must be present. That system shall be capable of terminating irradiation when not more than ten percent (10%) or twenty-five (25) dose monitoring units above the preselected number of dose monitor units set at the control panel has been detected by the second dose monitoring system. ( )

iv. For equipment installed after the effective date of these rules, an indicator on the control panel must show which dose monitoring system has terminated irradiation. ( )

j. It must be possible to interrupt irradiation and equipment movements at any time from the operator's position at the treatment control panel. Following an interruption, it must be possible to restart irradiation by operator action without any reselection of operating conditions. If any change is made of a preselected value during an interruption, irradiation and equipment movements must be automatically terminated. ( )

k. It must be possible to terminate irradiation and equipment movements, or go from an interruption condition to termination conditions, at any time, from the operator's position at the treatment control panel. ( )

l. The requirements for timers are as follows: ( )

- i. A timer which has a display must be provided at the treatment control panel. The timer must have a preset time selector and an elapsed time indicator. ( )
- ii. The timer must be a cumulative timer which activates with the production of radiation and retains its reading after irradiation is interrupted or terminated. After irradiation is terminated and before irradiation can be reinitiated, it must be necessary to reset the elapsed time indicator to zero (0). ( )
- iii. For equipment installed after the effective date of these rules after termination of irradiation and before irradiation can be reinitiated, it must be necessary to manually reset the preset time selector. ( )
- iv. The timer must terminate irradiation when a preselected time has elapsed if the dose monitoring systems have not previously terminated irradiation. ( )
- m. Equipment capable of both x-ray therapy and electron therapy must meet the following additional requirements:
  - i. Irradiation must not be possible until a selection of radiation type has been made at the treatment control panel. ( )
  - ii. An interlock system must be provided to insure that the equipment can emit only the radiation type which has been selected. ( )
  - iii. An interlock system must be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations carried out at the treatment control panel. ( )
  - iv. An interlock system must be provided to prevent irradiation with x-rays except to obtain a port film when electron applicators are fitted. ( )
  - v. An interlock system must be provided to prevent irradiation with electrons when accessories specific for x-ray therapy are fitted. ( )
  - vi. The radiation type selected must be displayed at the treatment control panel before and during irradiation. ( )
- n. Equipment capable of generating radiation beams of different energies must meet the following requirements:
  - i. Irradiation must not be possible until a selection of energy has been made at the treatment control panel. ( )
  - ii. An interlock system must be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations carried out at the treatment control panel. ( )
  - iii. The nominal energy value selected must be displayed at the treatment control panel before and during irradiation. ( )
  - iv. For equipment installed after the effective date of these rules, an interlock system must be provided to terminate irradiation if the energy of the electrons striking the x-ray target or electron window deviates by more than twenty percent (20%) or three (3) MeV, whichever is smaller, from the selected nominal energy. ( )
- o. Equipment capable of both stationary beam therapy and moving beam therapy must meet the following requirements:
  - i. Irradiation must not be possible until a selection of stationary beam therapy or moving beam therapy has been made at the treatment control panel. ( )
  - ii. An interlock system must be provided to insure that the equipment can operate only in the mode

which has been selected. ( )

iii. An interlock system must be provided to prevent irradiation if any selected operations carried out in the treatment room do not agree with the selected operations carried out at the treatment control panel. ( )

iv. The mode of operation must be displayed at the treatment control panel. ( )

v. For equipment installed after the effective date of these rules, an interlock system must be provided to terminate irradiation if: ( )

(1) Movement of the gantry occurs during stationary beam therapy; or ( )

(2) Movement of the gantry stops during moving beam therapy unless such stoppage is a preplanned function. ( )

vi. Moving beam therapy must be controlled to obtain the selected relationships between incremental dose monitor units and incremental angle of movement. ( )

(1) For equipment installed after the effective date of these rules, an interlock system must be provided to terminate irradiation if the number of dose monitor units delivered in any ten degrees (10) of arc differs by more than twenty percent (20%) from the selected value. ( )

(2) For equipment installed after the effective date of these rules, where gantry angle terminates the irradiation in arc therapy, the dose monitor units must differ by less than five percent (5%) from the value calculated from the absorbed dose per unit angle relationship. ( )

vii. Where the dose monitor system terminates the irradiation in arc therapy, the termination of irradiation must be as required by Subsection 210.01.i. ( )

p. For equipment installed after the effective date of these rules, a system must be provided from which readings the absorbed dose rate at a reference point in the treatment volume may be calculated. Radiation detectors specified in Subsection 210.01.f. may form part of this system. In addition: ( )

i. The dose monitor unit rate shall be displayed at the treatment control panel. ( )

ii. If the equipment can deliver under any conditions an absorbed dose rate at the normal treatment distance more than twice the maximum value specified by the manufacturer for any machine parameters utilized, a device must be provided which terminates irradiation when the absorbed dose rate exceeds a value twice the specified maximum. The value at which the irradiation will be terminated must be in a record maintained by the registrant. ( )

q. The registrant must determine, or obtain from the manufacturer, the location, with reference to an accessible point on the radiation head, of: ( )

i. The x-ray target or the virtual source of x-rays; and ( )

ii. The electron window or the virtual source of electrons if the system has electron beam capabilities. ( )

r. Capabilities must be provided so that all radiation safety interlocks can be checked for correct operation. When preselection of any of the operating conditions requires action in the treatment room and at the treatment control panel, selection at one (1) location must not give a display at the other location until the requisite selected operations have been completed in both locations. ( )

02. Facility and Shielding Requirements. In addition to Section 100, the following design requirements shall apply: ( )

- a. All protective barriers must be fixed except for entrance doors or beam interceptors. ( )
  - b. The control panel must be located outside the treatment room. ( )
  - c. The requirements of viewing systems are as follows: ( )
    - i. Windows, mirrors, closed-circuit television, or an equivalent system must be provided to permit continuous observation of the patient during irradiation and must be so located that the operator may observe the patient from the control panel. ( )
    - ii. When the primary viewing system is by electronic means, an alternate viewing system, which may be electronic, must be available for use in the event of failure of the primary viewing system. ( )
  - d. Provision must be made for two-way aural communication between the patient and the operator at the control panel. However, where excessive noise levels or treatment requirements makes aural communication impractical, other methods of communication must be used. ( )
  - e. Treatment room entrances must be provided with warning lights in readily observable positions near the outside of all access doors to indicate when the useful beam is "on". ( )
  - f. Interlocks must be provided such that all entrance doors must be closed before treatment can be initiated or continued. If the radiation beam is interrupted by any door opening, it must not be possible to restore the machine to operation without closing the door and reinitiating irradiation by manual action at the control panel. ( )
03. Surveys. ( )
- a. All facilities must have a survey made by, or under the direction of, a qualified expert. In addition, such surveys must be done after any change in the facility or equipment, which might cause a significant increase in radiation hazard such as shielding changes, or x-ray unit relocation. ( )
  - b. The registrant must obtain a written report of the survey from the qualified expert, and a copy of the report must be transmitted by the registrant to the Radiation Control Agency within thirty (30) days of receipt of the report. ( )
  - c. The survey and report must indicate all instances where the installation, in the opinion of the qualified expert, is in violation of applicable rules and regulations. ( )
04. Calibrations. ( )
- a. The calibration of systems subject to Section 210 must be performed in accordance with an established calibration protocol acceptable to the Radiation Control Agency before the system is first used for irradiation of a patient, and thereafter at time intervals which do not exceed twelve (12) months and after any change which might significantly alter the calibration, spatial distribution, or other characteristics of the therapy beam. The calibration protocol published by the American Association of Physicists in Medicine is accepted as an established protocol. For other protocols, the user must submit that protocol to the Radiation Control Agency for concurrence that the protocol is acceptable before any calibration. ( )
  - b. The calibration must be performed under the direct supervision of a radiological physicist who is physically present at the facility during the calibration. ( )
  - c. Calibration radiation measurements required by Subsection 210.04 must be performed using a dosimetry system: ( )
    - i. Having a calibration factor for cobalt-60 gamma rays traceable to a national standard; ( )
    - ii. Which has been calibrated within the previous two (2) years and after any servicing that may have

affected its calibration; ( )

iii. Which has been calibrated in such a fashion that any uncertainty can be stated for the radiation quantities monitored by the system; and ( )

iv. Which has had constancy checks performed on the system as specified by a radiological physicist. ( )

d. Calibrations must be in sufficient detail that the dose at a reference point in soft tissue may be calculated to within an uncertainty of five percent (5%). ( )

e. The calibration of the therapy beam must include, but not be limited to, the following determinations: ( )

i. Verification that the equipment is operating in compliance with the design specifications concerning the light localizer, side light, and back-pointer alignment with the isocenter when applicable, variation in the axis of rotation for the table, gantry, and jaw system, and beam flatness and symmetry at the specified depth; ( )

ii. The absorbed dose rate at various depths of water for the range of field sizes used, for each effective energy, that will verify the accuracy of the dosimetry of all therapy procedures utilized with that therapy beam;( )

iii. The uniformity of the radiation field and any dependency upon the direction of the useful beam; ( )

iv. Verification that existing depth-dose data and isodose charts applicable to the specific machine continue to be valid or are updated to existing machine conditions; and ( )

v. Verification of transmission and electron buildup factors for all accessories such as wedges, shadow trays, and compensators. ( )

f. Records of calibration measurements under Subsection 210.04.a. and dosimetry system calibrations under Subsection 210.04.c. must be maintained for five (5) years after completion of the full calibration. ( )

g. A copy of the latest calibration performed pursuant to Subsection 210.04.a. must be available in the area of the control panel. ( )

05. Spot Checks. Spot checks must be performed on systems subject to Section 210 during calibrations, and thereafter at intervals not to exceed one (1) month. Such spot-checks must meet the following requirements: ( )

a. The spot-check procedures must be in writing and must have been developed by a radiological physicist. A copy of the procedure must be submitted to the Radiation Control Agency prior to its implementation. ( )

b. If a radiological physicist does not perform the spot-check measurements, then the results of the spot-check measurements must be reviewed by a radiological physicist within fifteen (15) days. ( )

c. The spot-check procedures must specify the frequency at which tests or measurements are to be performed and the acceptable tolerance for each parameter measured in the spot-check when compared to the value for that parameter determined in the calibration. ( )

d. Spot-checks shall be made of absorbed dose measurements at a minimum of two (2) depths in a phantom at intervals not to exceed one (1) week. ( )

e. Where a system has built-in devices which provide a measurement of any parameters during irradiation, such measurement must not be utilized as a spot-check measurement. ( )

f. The cause for a parameter exceeding a tolerance set by the radiological physicist must be investigated and corrected before the system is used for patient irradiation. ( )

g. Whenever a spot-check indicates a significant change in the operating characteristics of a system, as specified in the radiological physicist's spot-check procedures, the system must be recalibrated as required in Subsection 210.04. ( )

h. Records of spot-check measurements must be maintained by the registrant for a period of two (2) years after completion of the spot-check measurements or any necessary corrective actions, whichever is later. ( )

i. Where a spot-check involves a radiation measurement, such measurement must be obtained using a system satisfying the requirements of Subsection 210.04.c. or which has been calibrated with a system meeting those requirements within the previous year. ( )

06. Operating Procedures. ( )

a. No individual other than the patient may be in the treatment room during treatment of a patient. ( )

b. If a patient must be held in position during treatment, mechanical supporting or restraining devices must be used. ( )

c. The system must not be used in the administration of radiation therapy unless the requirements of Subsections 210.01, through 210.05 have been met. ( )

**211. RADIOGRAPHIC MACHINES USED FOR MAMMOGRAPHY.**

In addition to other applicable requirements of these rules, radiation machines used for mammography shall comply with these requirements: ( )

01. General Requirements. ( )

a. Only radiation machines specifically designed for mammography shall be used; ( )

b. Radiation machines used for mammography shall be evaluated to ensure conformance to the requirements of these rules at intervals not to exceed twelve (12) months, and upon installation prior to being used on human beings. ( )

c. The registrant shall record the results of all tests made to evaluate compliance with these rules, and shall maintain these records available for inspection by the agency for a minimum of three (3) years. ( )

02. Radiation Machine Standards. ( )

a. X-ray Beam Quality. ( )

i. When used with screen-film image receptors, the useful beam shall have a half-value layer (HVL) between the values of: measured kilovoltage/100 and measured kilovoltage/100 + 0.1 millimeters aluminum equivalent. ( )

ii. All other mammography imaging modalities shall meet the requirements for minimum half-value layer specified in Subsection 204.03.a. of these rules. ( )

iii. Determination of half-value layer for mammography systems shall include the contribution to useful beam equivalent aluminum filtration made by the compression device. ( )

iv. The actual kilovolts-peak (kVp) shall be within plus or minus five percent (5%) of the indicated kVp. ( )

- b. Radiation Output. ( )
- i. Radiation machines used for mammography shall be capable of producing five hundred (500) milliroentgens/ second (one hundred twenty nine (129) microCoulomb/kilogram/second) for at least three (3) seconds, and producing a minimum output of eight (8) milliroentgens (two point one (2.1) microCoulomb/kilogram) per milliAmpere-second. ( )
- ii. The minimum radiation output requirements of this part shall be measured at a point four point five (4.5) centimeters from the surface of the patient support device with the source-to-image receptor distance (SID) at maximum and the output attenuation of the compression device included. ( )
- c. X-ray Beam Alignment\Limitation\Transmission. ( )
- i. The radiation machine used for mammography shall be provided with means to limit the useful x-ray beam so that the x-ray field at the plane of the image receptor does not extend beyond any edge of the image receptor at any designated source to image receptor distance except the edge of the image receptor adjacent to the chest wall, where the x-ray field may extend beyond this edge by no more than two percent (2%) of the SID. ( )
- ii. The projected collimator light field shall extend beyond the projected radiation field along both the length or width of the radiation field, at any designated source to image receptor distance, by no more than two percent (2%) of the SID. ( )
- d. Mammographic Exposure Control. ( )
- i. Radiation machines used for mammography shall incorporate means to terminate the exposure at a preset time interval, a preset product of tube current and exposure duration, a preset number of pulses, or a preset radiation exposure at the plane of the image receptor. ( )
- ii. Exposure shall only be possible by the use of an exposure switch of the "deadman" type as defined in Subsection 002.30 of these rules. ( )
- iii. When both manual and automatic exposure control modes are available, the x-ray control panel shall clearly indicate which mode is selected. ( )
- iv. The coefficient of variation between exposures for both automatic and manual exposure modes shall not exceed five one hundredth (0.05). This requirement is met when four (4) successive exposures are made at identical exposure factors, and the standard deviation of the four (4) exposure values divided by the mean exposure value is less than or equal to five one hundredth (0.05). ( )
- v. Exposure control in the automatic exposure mode shall provide the capability of maintaining constant film density to within plus or minus three tenths (0.3) optical density unit of the average optical density over the range of clinically used kilovoltage, for acrylic or BR-12 phantom thicknesses of two (2) centimeter to six (6) centimeters. ( )
- vi. The mammography exposure control system(s) shall limit the mean glandular dose, for one craniocaudal view of a four point five (4.5) centimeter compressed breast composed of fifty percent (50%) adipose fifty percent (50%) glandular tissue, not to exceed these values: ( )
- (1) One milligray (one hundred (100) millirads) for non-grid screen-film imaging modes; ( )
- (2) Two milligray (two hundred (200) millirads) for screen-film systems with grid. ( )
- (3) The technical exposure factors used to determine compliance with this part shall be those used by the facility for its clinical images of a fifty percent (50%) adipose fifty percent (50%) glandular tissue four point five (4.5) centimeter compressed breast, craniocaudal view. ( )

- vii. Determination of mean glandular dose shall be made with a breast phantom in the useful beam. The breast phantom shall be equivalent in attenuation to the RMI 156 breast phantom. ( )
- e. Integral Ancillary Equipment ( )
  - i. Radiation machines used for mammography shall be provided with an integral anti-scatter grid available for use with all image receptor sizes. ( )
  - ii. The mammography radiation machine shall be provided with a compression device which is capable of compressing the breast with a force of at least twenty five (25) pounds and no more than forty (40) pounds for a period of at least fifteen (15) seconds. ( )
  - iii. The chest wall edge of the compression paddle must be aligned with the chest wall edge of the image receptor to within one percent (1%) of the SID when the compression paddle is placed four point five (4.5) centimeters above the patient support device. ( )
  - iv. Radiation machines used for mammography, and which are newly installed after the effective date of these rules shall incorporate a post-exposure milliamperere-seconds indicator when used in automatic exposure control mode. ( )
- 03. Quality Assurance Program. ( )
  - a. QA Program Responsibilities. The registrant shall maintain, and have in place prior to the initiation of mammography imaging, a written quality assurance program for each mammography x-ray system. The registrant shall be responsible for providing qualified individuals whose duties include: ( )
    - i. Conducting equipment performance monitoring functions; ( )
    - ii. Analyzing the monitoring results to determine if there are problems requiring correction; ( )
    - iii. Carrying out or arranging for the necessary corrective actions when quality assurance testing indicates a standard in these rules is not met. ( )
  - b. Image Quality Standards/Processor Performance. ( )
    - i. Phantom Image Quality. The mammography x-ray system shall be capable of providing an image of a seventy five one hundredths (0.75) millimeter fiber, a thirty two one hundredths (0.32) millimeter speck group, and a seventy five one hundredths (0.75) millimeter mass. This standard will be met when a mammographic image of an RMI 156 breast phantom demonstrates four (4) fibers, three (3) speck groups and three (3) masses. ( )
    - ii. Mid-density (MD) density difference (DD). Deviations from established operating levels for measured values of mid-density (MD) and density difference (DD) on sensitometric control charts shall not exceed one tenth (0.10) Optical Density Units. ( )
    - iii. Base + Fog (B + F). The base + fog shall not exceed the established operating level by more than three one hundredths (0.03) Optical Density Units. ( )
    - iv. Darkroom Fog. Darkroom fog levels shall not exceed five one hundredths (0.05) Optical Density Units above base + fog. Darkroom fog tests shall be made with film presensitized by exposure to sufficient light from an intensifying screen so that after processing, an Optical Density of one and two tenths (1.2) to one and six tenths (1.6) is achieved. The presensitized film shall be exposed to darkroom safelight conditions for two (2) minutes. ( )
    - v. Image Receptor Systems. Image receptor systems and their individual components shall be specifically designed for, and appropriate to mammography imaging. ( )
    - vi. Intensifying Screens. Mammography image intensifying screens shall be removed from service and



appropriate corrective action implemented if the following standards are not met: ( )

(1) Screen Speed Uniformity. Intercomparison of the measured optical density in the geometric center of a phantom image obtained with each intensifying screen in use shall be not exceed three tenths (0.30) optical density unit between the minimum and maximum density. The technical exposure factors shall be the same for each screen, and the phantom used for these images shall be a four (4.0) centimeter thick cassette-sized phantom of acrylic or BR-12, or a breast phantom equivalent in attenuation to the RMI 156. ( )

(2) Screen-film Contact. Cassettes shall not be used for mammography if one or more large areas ( $\geq$  one (1.0) centimeters) of poor film-screen contact is visualized on an image made with a forty (40) mesh mammography film- screen contact test tool. ( )

(3) Screen Identification. Each intensifying screen shall be legibly marked with a unique identification mark for that particular screen, visible on the film outside the area of clinical interest, with a corresponding mark on the outside of the cassette. ( )

vii. Film Processors. Film processors utilized for mammography shall be adjusted to, and operated at the specifications recommended by the mammographic film manufacturer. Alternative settings which are shown by documented test results to provide equivalent sensitometric performance are acceptable. ( )

viii. Reject Rate. Corrective action shall be taken if the film reject rate exceeds five percent (5%). The reject rate shall be based upon clinical images which must be repeated. ( )

c. Quality Assurance Tests/Intervals. The registrant shall ensure that the following quality control tests are performed when applicable equipment or components are initially installed, replaced or repaired, and at least at these specified intervals: ( )

i. Primary Secondary Barrier Transmission-Upon initial installation and following each significant modification to the mammography system or the primary secondary barriers. ( )

ii. Processor performance by sensitometric means - daily, or each day of use prior to the first patient exposure. For any mammography registrant using film processors at multiple locations, such as mobile mammography services, each processor shall be subject to this requirement. ( )

iii. Screen Cleanliness Artifacts - weekly. ( )

iv. Image Quality - monthly for stationary systems and prior to performing mammography at each location for mobile systems. ( )

v. Reject Rate Analysis - three (3) months. ( )

vi. Compression Device - six (6) months. ( )

vii. Darkroom Integrity (safelight condition, light leaks) - six (6) months. ( )

viii. Screen-film Contac - six (6) months. ( )

ix. Beam Alignment and Limitation - twelve (12) months. ( )

x. Automatic Exposure Control Reproducibility - twelve (12) months. ( )

xi. Collimator alignment - twelve (12) months. ( )

xii. Focal Spot Size Resolution - upon initiation installation and at each tube replacement, and at intervals not to exceed twelve (12) months. ( )

xiii. Half-value Layer - twelve (12) months. ( )

- xiv. kVp Accuracy - twelve (12) months. ( )
- xv. Radiation Output Reproducibility and linearity - twelve (12) months. ( )
- d. QA Program Annual Review. In addition to the routine quality assurance testing required in these rules, the registrant shall effect a comprehensive review of the effectiveness of all elements of the quality assurance program for each mammography system at intervals not to exceed twelve (12) months. This review shall: ( )
  - i. Address all aspects of quality assurance in these rules for each mammography x-ray system;( )
  - ii. Be documented in writing and the results maintained available for inspection by the agency for three (3) years; ( )
  - e. Corrective Action. When a mammography x-ray system fails one of the quality assurance tests required in these rules, unless otherwise specified herein, the mammography x-ray system shall be removed from service until appropriate corrective action is completed. The mammography x-ray system shall not be placed back into service until repeat test results verify adequacy of the corrective action. ( )

**212. -- 299. (RESERVED).**

**300. RADIATION SAFETY REQUIREMENTS FOR ANALYTICAL X-RAY OPERATIONS.**

The rules in Section 300 establish requirements for the use of analytical x-ray machines, as defined in Subsection 002.10 and 002.11 by persons registering such machines under the provisions of Section 090. The provisions of Section 300 are in addition to, and not in substitution for, other applicable provisions of these rules. ( )

**301. -- 319. (RESERVED).**

**320. EQUIPMENT.**

01. Labels. A label bearing essentially the words "**CAUTION RADIATION - THIS EQUIPMENT PRODUCES RADIATION WHEN ENERGIZED**" must be placed near any switch which energizes a tube. All labels must use the conventional colors (magenta or purple on yellow background) and bear the conventional radiation symbol. ( )

02. Signs. A sign bearing the words "**CAUTION - HIGH INTENSITY X-RAY BEAM**" must be placed in the area immediately adjacent to each tube housing. The sign must be so located that it is clearly visible to any person operating, aligning, or adjusting the unit or handling or changing a sample. ( )

03. Beam Alignment Apparatus. Any apparatus utilized in beam alignment procedures must be designed in such a way that excessive radiation will not strike the operator. Particular attention must be given to viewing devices, in order to ascertain that lenses and other transparent components attenuate the beam to an acceptable level. ( )

04. Warning Lights. ( )

a. An easily visible warning light labeled with the words "**X-RAY ON**", or words having a similar intent, must be located: ( )

i. Near any switch that energizes an x-ray tube and must be illuminated only when the tube is energized; or ( )

ii. In the case of a radioactive source, near any switch that opens a housing shutter and must be illuminated only when the shutter is open. ( )

b. Onequipmentinstalledaftertheeffectivedateoftheserules,warninglightsmusthavefail-safecharacteristics. ( )

05. Safety Devices. A device which prevents the entry of any portion of an individual's body into the primary x-ray beam path or which causes the beam to be shut off upon entry into its path must be provided on all open-beam configurations. A registrant or licensee can apply to the Radiation Control Agency for an exemption from the requirement of a safety device. Such application will include: ( )

a. A description of the various safety devices that have been evaluated; and ( )

b. The reason each of these devices cannot be used; and ( )

c. A description of the alternative methods that will be employed to minimize the possibility of an accidental exposure, including procedures to assure that operators and others in the area will be informed of the absence of safety devices. ( )

06. Shutter Mechanisms. If a shutter mechanism is used to control the primary beam, a shutter status (open or closed) indication must be provided in the area adjacent to the tube head so that the position of the shutter is readily discernible. ( )

07. Control Panel Interlock. If an interlock device turns off the x-ray beam, it must not be possible to resume operation without resetting the beam "ON" switch at the control panel. ( )

08. Leakage and Monitoring. The tube housing leakage radiation at any accessible point five (5) cm from the surface of the tube housing must not exceed two and one-half (2.5) mR per hour at each maximum specified tube rating. This measurement must be made with a monitoring instrument appropriate for the energy range generated by the x-ray equipment, and must be made with beam ports blocked off. ( )

09. Generator Cabinet. Each x-ray generator must be supplied with a protective cabinet which limits leakage radiation measured at a distance of five (5) cm from its surface such that it is not capable of producing a dose in excess of twenty-five hundredths (0.25) mrem in one (1) hour. ( )

**321. -- 329. (RESERVED).**

**330. ADMINISTRATIVE RESPONSIBILITIES.**

01. Radiation Safety Officer. An individual at each facility must be designated to be responsible for maintaining radiation safety. This individual, designated the Radiation Protection Supervisor or Radiation Safety Officer, will be responsible for the following: ( )

a. Establishing and maintaining operational procedures so that the radiation exposure of each worker is kept as far below the maximum permissible dose as is practical; and ( )

b. Instructing all personnel who work with or near radiation producing machines in safety practices; and ( )

c. Maintaining a system of personnel monitoring; and ( )

d. Arranging for establishment of radiation control areas, including placement of appropriate radiation warning signs and/or devices; and ( )

e. Providing for radiation safety inspection of radiation producing machines on a routine basis; and ( )

f. Reviewing modifications to x-ray apparatus, including x-ray tube housing, cameras, diffractometers, shielding, and safety interlocks; and ( )

g. Investigating and reporting to proper authorities any case of excessive exposure to personnel and taking remedial action; and ( )

h. Being familiar with all applicable rules and regulations for control of ionizing radiation. ( )

02. Operator Qualifications. No individual will be permitted to act as an operator of a particular machine until such individual has received an acceptable amount of training in radiation safety as it applies to that machine and is approved by the Radiation Protection Supervisor or Radiation Safety Officer. Operators will be responsible for: ( )

a. Keeping radiation exposure to himself and to others as low as is practical; and ( )

b. Being familiar with safety procedures as they apply to each machine; and ( )

c. Wearing of personnel monitoring devices, if applicable; and ( )

d. Notifying the Radiation Protection Supervisor or Radiation Safety Officer of known or suspected excessive radiation exposures to himself or others. ( )

**331. AREA REQUIREMENTS.**

01. Radiation Levels. The local components of an analytical x-ray system must be located and arranged and must include sufficient shielding or access control such that no radiation levels exist in any area surrounding the local component group which could result in a dose to an individual present therein in excess of the dose limits given in Subsection 110.01. For systems utilizing x-ray tubes, these levels will be met at any specified tube rating. ( )

02. Surveys. Radiation surveys, as required by Subsection 120.01, of all analytical x-ray systems sufficient to show compliance with Subsection 331.01 must be performed: ( )

a. Upon installation of the equipment; and ( )

b. Following any change in the initial arrangement, number, or type of local components in the system; and ( )

c. Following any maintenance requiring the disassembly or removal of a local component in the system; and ( )

d. During the performance of maintenance and alignment procedures if the procedures require the presence of a primary x-ray beam when any local component in the system is disassembled or removed; and ( )

e. Any time a visual inspection of the local components in the system reveals an abnormal condition; and ( )

f. Whenever personnel monitoring devices show a significant increase over the previous monitoring period or the readings are approaching the Radiation Protection Guides, radiation dose limits, as set forth in Section 110. ( )

03. Exceptions to Surveying. Radiation survey measurements will not be required if a registrant or licensee can demonstrate compliance by some other means to the satisfaction of the Radiation Control Agency with Subsection 331.01. ( )

04. Posting. Each area or room containing analytical x-ray equipment must be conspicuously posted with a sign or signs bearing the radiation symbol and the words "**CAUTION - X-RAY EQUIPMENT**" or words having a substantially similar intent. ( )

**332. -- 339. (RESERVED).**

**340. OPERATING PROCEDURES.**

01. Normal Operating Procedures. Normal operating procedures must be written and available to all analytical x-ray equipment workers. No person will be permitted to operate analytical x-ray equipment in any manner other than that specified in the procedures unless such person has obtained written approval of the Radiation Safety Officer.  
( )

02. Emergency Procedures. Written emergency procedures pertaining to radiation safety must be established for each x-ray producing apparatus by the Radiation Protection Supervisor, and posted in a conspicuous location. These must list the telephone numbers of the Radiation Protection Supervisor and must include the following actions to be taken in case of a known, or suspected, accident involving radiation exposure: ( )

a. Notify Radiation Protection Supervisor; and ( )

b. Arrange for medical examination. Additionally, the examining physician must be notified that exposure to low energy x-rays may have occurred. ( )

03. Exposure. Personnel must not expose any part of their body to the primary beam. ( )

04. Installation, Repair, and Modification. Only properly trained maintenance personnel can be permitted to install, repair, or make other than routine modifications to the x-ray generating apparatus and the tube housing apparatus complex. ( )

05. X-ray Diffraction and Spectrographic Equipment. Whenever possible, x-ray diffraction and spectrographic equipment must be placed in a room separate from other work areas. ( )

06. Alterations. If, for any reason, it is necessary to temporarily intentionally alter safety devices, such as bypassing interlocks or removing shielding, such action must be: ( )

a. Specified in writing and posted near the x-ray tube housing so that other persons will know the existing status of the machine; and ( )

b. Terminated as soon as possible. ( )

07. Unused Tube Head Ports. Tube head ports must be secured in the closed position in a manner which will prevent casual opening; these must be checked prior to use when the machine has been left unattended. ( )

08. Personnel Monitoring. Finger or wrist dosimetric devices must be provided to and must be used by:  
( )

a. Analytical x-ray equipment workers using systems having an open-beam configuration and not equipped with a safety device; and ( )

b. Personnel maintaining analytical x-ray equipment, if the maintenance procedures require the presence of a primary x-ray beam when any local component in the analytical x-ray system is disassembled or removed.  
( )

09. Unattended Equipment. Analytical x-ray equipment must not be left unattended while the tube is energized unless: ( )

a. An interlock device is provided to prevent accidental entry into the primary beam; and ( )

b. The stray radiation at any accessible point at a distance of ten (10) inches, twenty-five (25) centimeters, from the tube housing or its containment, as measured with a monitoring instrument appropriate for the energy range generated, is no greater than two (2) mR per hour. ( )

10. Safety Devices. Safety devices should be tested at least once per week, and must be tested at intervals not to exceed one (1) month. ( )

11. Records. Records of personnel monitoring results and safety device tests must be maintained for inspection by the Radiation Control Agency. ( )

**341. -- 349. (RESERVED).**

**350. RADIATION SAFETY REQUIREMENTS FOR PARTICLE ACCELERATOR OPERATIONS.**

The rules that follow comprise basic or minimum safety procedures for all accelerator facilities. The rules in Section 350 establish requirements for the use of particle accelerators by persons registering such machines under the provisions of Section 090. The provisions of Sections 350 through 399 are in addition to, and not in substitution for, other applicable provisions of these rules. ( )

**351. -- 352. (RESERVED).**

**353. REGISTRATION PROCEDURE.**

01. Registration Requirements. Persons must not receive, possess, use, transfer, own, or acquire a particle accelerator except as authorized in a registration issued pursuant to or otherwise provided for in these rules. The general procedures for registration of particle accelerator facilities are included in Section 090. ( )

02. General Requirements for the Issuance of a Registration for Particle Accelerators. In addition to the requirements of Section 090 a registration application for use of a particle accelerator will be approved only if the Radiation Control Agency determines that: ( )

a. The applicant is qualified by reason of training and experience to use the accelerator in question for the purpose requested in accordance with Sections 353, 100, and 450 in such a manner as to minimize danger to public health and safety and/or property; and ( )

b. The applicant's proposed equipment, facilities, operating and emergency procedures are adequate to protect health and minimize danger to public health and safety and/or property; and ( )

c. The issuance of the registration will not be harmful or adverse to the health and/or safety of the public, and the applicant satisfies any applicable special requirement in Subsection 353.03; and ( )

d. The applicant has appointed a Radiation Safety Officer; and ( )

e. The applicant and/or his staff has substantial experience in the use of particle accelerators for the intended uses; and ( )

f. The applicant has established a radiation safety committee to approve, in advance, proposals for uses of particle accelerators, whenever deemed necessary by the Radiation Control Agency; and ( )

g. The applicant has an adequate training program for particle accelerator operators. ( )

03. Human Use of Particle Accelerators. In addition to the requirements set forth in Section 090 a registration for use of a particle accelerator in the healing arts will be issued only if: ( )

a. Whenever deemed necessary by the Radiation Control Agency, the applicant has appointed a medical committee of at least three (3) members to evaluate all proposals for research, diagnostic, and therapeutic use of a particle accelerator. (Membership of the committee should include physicians expert in internal medicine, hematology, therapeutic radiology, and a person experienced in depth dose calculations and protection against radiation); and ( )

b. The individuals designated on the application as the users have substantial training and experience in deep therapy techniques or in the use of particle accelerators to treat humans; and ( )

c. The individual designated on the application as the user is a physician. ( )

**354. RADIATION SAFETY REQUIREMENTS FOR THE USE OF PARTICLE ACCELERATORS.**

Section 354, establishes radiation safety requirements for the use of particle accelerators. The provisions are in addition to, and not in substitution for, other applicable provisions of these rules. The registrant will be responsible for assuring that all requirements of Section 350 are met. ( )

01. Limitations. ( )

a. No registrant will permit any person to act as a particle accelerator operator until such person: ( )

i. Has been instructed in radiation safety and has demonstrated an understanding thereof; and ( )

ii. Has received copies of and instruction in Section 350 and the applicable requirements of Sections 100 and 450 pertinent registration conditions and the registrant's operating and emergency procedures, and has demonstrated understanding thereof; and ( )

iii. Has demonstrated competence to use the particle accelerator, related equipment, and survey instruments which will be employed in that person's assignment. ( )

b. Either the radiation safety committee or the Radiation Safety Officer will have the authority to terminate the operations at a particle accelerator facility if such action is deemed necessary to protect health and/or minimize danger to public health and safety and/or property. ( )

02. Shielding and Safety Design Requirements. ( )

a. A qualified expert, acceptable to the Radiation Control Agency, must be consulted in the design of a particle accelerator installation and called upon to perform a radiation survey when the accelerator is first capable of producing radiation. ( )

b. Each particle accelerator installation must be provided with such primary and/or secondary barriers as are necessary to assure compliance with Subsections 110.01 and 110.05. ( )

03. Particle Accelerator Control and Interlock Systems. ( )

a. Instrumentation, readouts and controls on the particle accelerator control console must be clearly identified and easily discernible. ( )

b. All entrances into a target room or other high radiation area must be provided with interlocks that shut down the machine under conditions of barrier penetration. ( )

c. When an interlock system has been tripped, it must only be possible to resume operation of the accelerator by manually resetting controls at the position where the interlock has been tripped, and then at the main control console. ( )

d. Each safety interlock must be on a circuit which will allow its operation independently of all other safety interlocks. ( )

e. All safety interlocks must be designed so that any defect or component failure in the interlock system prevents operation of the accelerator. ( )

f. A scram button or other emergency power cutoff switch must be located and easily identifiable in all high radiation areas. This button or cutoff switch must include a manual reset so that the accelerator cannot be restarted from the accelerator control console without resetting the cutoff switch. ( )

04. Warning Devices. ( )

a. All locations designated as high radiation areas, and entrances to such locations must be equipped

with easily observable flashing or rotating warning lights that operate when, and only when, radiation is being produced.  
( )

b. Except in facilities designed for human exposure, each high radiation area must have an audible warning device which will be activated for fifteen (15) seconds prior to the possible creation of such high radiation area. Such warning device will be clearly discernible in all high radiation areas and all radiation areas. ( )

c. Barriers, temporary or otherwise, and pathways leading to high radiation areas must be identified in accordance with Subsection 120.03. ( )

05. Operating Procedures. ( )

a. Particle accelerators, when not in operation, must be secured to prevent unauthorized use. ( )

b. Only a switch on the accelerator control console must be routinely used to turn the accelerator beam on and off. The safety interlock system will not be used to turn off the accelerator beam except in an emergency.  
( )

c. All safety and warning devices, including interlocks, must be checked for proper operability at intervals not to exceed three (3) months. Results of such tests will be maintained for inspection at the accelerator facility.  
( )

d. Electrical circuit diagrams of the accelerator and the associated interlock systems must be kept current and maintained for inspection by the Radiation Control Agency and available to the operator at each accelerator facility. ( )

e. If, for any reason, it is necessary to intentionally bypass a safety interlock or interlocks, such action will be: ( )

i. Authorized by the radiation safety committee and/or radiation safety officer; and ( )

ii. Recorded in a permanent log and a notice posted at the accelerator control console; and ( )

iii. Terminated as soon as possible. ( )

f. A copy of the current operating and the emergency procedures must be maintained at the accelerator control panel. ( )

g. Accelerators must not be left unattended while energized. ( )

06. Radiation Monitoring Requirements. ( )

a. There must be available at each particle accelerator facility, appropriate portable monitoring equipment which is operable and appropriately calibrated for the radiations being produced at the facility. This equipment must be tested for proper operation daily and calibrated at intervals not to exceed one (1) year, and after each servicing and repair. ( )

b. A radiation protection survey must be performed and documented by a qualified expert acceptable to the Radiation Control Agency when changes have been made in shielding, operation, equipment, or occupancy of adjacent areas. ( )

c. Radiation levels in all high radiation areas must be continuously monitored. The monitoring devices must be electrically independent of the accelerator control and interlock systems and capable of providing local readout at both the control panel and at entrance to high radiation areas, and other appropriate locations, so that people entering or present become aware of the existence of the hazard. ( )

d. All area monitors will be calibrated at intervals not to exceed one (1) year and after each servicing



and repair. ( )

e. Whenever applicable, periodic surveys must be made to determine the amount of airborne particulate radioactivity present in areas of airborne hazards. ( )

f. Whenever applicable, periodic smear surveys must be made to determine the degree of contamination in target and other pertinent areas. ( )

g. All area surveys must be made in accordance with the written procedures established by a qualified expert, or the Radiation Safety Officer of the particle accelerator facility. ( )

h. Records of all radiation protection surveys, calibration results, instrumentation tests, and smear results must be kept current and on file at each accelerator facility. ( )

**355. -- 439. (RESERVED).**

**440. PUBLIC AND CONFIDENTIAL INFORMATION.**

01. Accessibility. Except as provided in this section or other applicable law, information obtained or submitted pursuant to these rules will be available to the public for inspection and copying during normal working hours. Anyone requesting Radiation Control Agency assistance in collecting, copying or mailing public information must tender, in advance, the reasonable cost of those services. ( )

02. Confidentiality. Information concerning radiation sources submitted to the Radiation Control Agency pursuant to these rules which, as certified by the owner or operator of such source, relates to production or sales figures or to processed or production unique to the owner or operator, or tends to adversely affect the competitive position of such owner or operator, may be disclosed only to the Board, the Radiation Control Agency or a hearing officer unless: ( )

a. The Board, after a hearing, determines that a claim of uniqueness or adverse effect is unwarranted; ( )

b. The owner or operator expressly consents to disclosure; or ( )

c. Disclosure is required for criminal prosecution of a violation of the Idaho Environmental Protection and Health Act. ( )

03. Department Discretion. The Radiation Control Agency may decline to release to the public: ( )

a. Inconclusive preliminary data or reports generated as part of ongoing studies; and ( )

b. Information obtained as part of ongoing investigations when release would: ( )

i. Interfere with enforcement proceedings; ( )

ii. Deprive a person of a fair or impartial adjudication; ( )

iii. Discourage informants from disclosing information to the Radiation Control Agency; ( )

iv. Disclose investigative techniques or proceedings; or ( )

v. Endanger the safety of Radiation Control Agency personnel. ( )

**441. -- 449. (RESERVED).**

**450. NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS -- INSPECTIONS.**

01. Purpose and Scope. Section 450 establishes requirements for notices, instructions and reports by registrants to individuals engaged in work under a registration and options available to such individuals in connection with the Radiation Control Agency compliance inspections of registrants regarding radiological working conditions. ( )

02. Posting of Notices to Workers. ( )

a. Each registrant must post current copies of the following documents: ( )

i. The rules in Sections 450 and 100; and ( )

ii. The certificate of registration; and ( )

iii. The operating procedures applicable to work under the registration; and ( )

iv. Any notice of violation involving radiological working conditions, proposed imposition of civil penalty, or order issued pursuant to Section 000 and any response from the registrant. ( )

b. If posting of a document specified in Subsections 450.02.a.i., 450.02.a.ii., or 450.02.a.iii. is not practicable, the registrant can post a notice which describes the document and states where it can be examined.( )

c. Agency form "Notice to Employees" must be posted by each registrant wherever individuals work in or frequent any portion of a restricted area. This form must include the following wording:

**"NOTICE TO EMPLOYEES"**

**STANDARDS FOR PROTECTION AGAINST RADIATION**

In Idaho Radiation Control Rules, the Idaho State Board of Health has established standards for your protection against radiation hazards.

**YOUR EMPLOYER'S RESPONSIBILITY**

Your employer is required to....

1. Apply these rules to work involving sources of radiation.

2. Post or otherwise make available to you a copy of the Idaho Department of Health and Welfare Radiation Control Rules and operating procedures which apply to work you are engaged in, and explain their provisions to you.

**YOUR RESPONSIBILITY AS A WORKER**

You should familiarize yourself with those provisions of the Idaho Department of Health and Welfare Radiation Control Rules, and the operating procedures which apply to the work you are engaged in. You should observe its provisions for your own protection and protection of your co-workers.

**WHAT IS COVERED BY THESE RULES**

1. Limits on exposure to radiation in restricted and unrestricted areas;
2. Measures to be taken after accidental exposure;
3. Personnel monitoring, surveys and equipment;
4. Caution signs, labels, and safety interlock equipment;
5. Exposure records and reports; and
6. Related matters.

**REPORTS ON YOUR RADIATION EXPOSURE HISTORY**

1. The Idaho Department of Health and Welfare Radiation Control Rules require that your employer give you a written report if you receive an exposure in excess of any applicable limit as set forth in the rules. The basic limits for exposure to employees are set forth in Section 100. This section specifies limits on exposure to radiation.

2. If you work where personnel monitoring is required, and if you request information on your radiation exposures,

a. Your employer must give you a written report, upon termination of your employment, of your radiation exposures, and

b. Your employer must advise you annually of your exposure to radiation.

**INSPECTIONS**

All registered activities are subject to inspection by representatives of the Idaho Department of Health and Welfare.

**INQUIRIES**

Inquiries dealing with the matters outlined above can be sent to the Radiation Control Section, Idaho Department of Health and Welfare, 2220 Old Penitentiary Road, Boise, Idaho, 83712-8299, having inspection responsibility over your installation.

**POSTING REQUIREMENT**

COPIES OF THIS NOTICE MUST BE POSTED IN A SUFFICIENT NUMBER OF PLACES IN EVERY ESTABLISHMENT WHERE EMPLOYEES ARE EMPLOYED IN ACTIVITIES REGISTERED, PURSUANT TO IDAHO DEPARTMENT OF HEALTH AND WELFARE RADIATION CONTROL RULES, TITLE 02, CHAPTER 27, SECTION 050, BY THE IDAHO DEPARTMENT OF HEALTH AND WELFARE, TO PERMIT EMPLOYEES WORKING IN OR FREQUENTING ANY PORTION OF A RESTRICTED AREA TO OBSERVE A COPY ON THE WAY TO OR FROM THEIR PLACE OF EMPLOYMENT." ( )

d. Documents, notices or forms posted pursuant to this Section must appear in a sufficient number of places to permit individuals engaged in work under the registration to observe them on the way to or from any particular work location to which the document applies, must be conspicuous, and must be replaced if defaced or altered. ( )

e. Radiation Control Agency documents posted pursuant to Subsection 450.02.a.iv. must be posted within five (5) working days after receipt of the documents from the Radiation Control Agency; the registrant's response, if any, must be posted within five (5) working days after dispatch from the registrant. These documents must remain posted for a minimum of five (5) working days or until action correcting the violations has been completed, whichever is later. ( )

03. Instructions to Workers. All individuals working in or frequenting any portion of a restricted area must: ( )

a. Be instructed in the health protection problems associated with exposure to radiation, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed; ( )

b. Be instructed in and directed to observe, to the extent within the worker's control, the applicable provisions of Radiation Control Agency rules for the protection of personnel from exposures to radiation occurring in such areas; ( )

c. Be instructed of their responsibility to report promptly to the registrant any condition which can lead to or cause a violation of Radiation Control Agency rules or unnecessary exposure to radiation; ( )

d. Be instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction which might involve exposure to radiation; and ( )

e. Be advised as to the radiation exposure reports which workers can request pursuant to Subsection 450.04. The extent of these instructions must be commensurate with potential radiological health protection problems in the restricted area. ( )

04. Notifications and Reports to Individuals. ( )
- a. Each registrant must advise workers annually of their exposure to radiation as shown in records maintained by the registrant pursuant to Subsections 140.01.a. and 140.01.c. ( )
- b. Each registrant must furnish to the workers a report of their exposure to radiation. Such report must be furnished within thirty (30) days from the time the request is made, or within thirty (30) days after the exposure of the individual has been determined by the registrant, whichever is later; must cover, within the period of time specified in the request, each calendar quarter in which the worker's activities involved exposure to radiation from radiation machines registered with the Radiation Control Agency; and must include the dates and locations of work under the registration in which the worker participated during this period. ( )
- c. When a registrant is required pursuant to Subsection 140.04 to report to the Radiation Control Agency any exposure of an individual to radiation, the registrant must also provide the individual a report on his exposure data included therein. Such reports will be transmitted at a time not later than the transmittal to the Radiation Control Agency. ( )
- d. At the request of a worker who is terminating employment in a given calendar quarter with the registrant in work involving radiation dose, or of a worker who, while employed by another person, is terminating assignment to work involving radiation dose in the registrant's facility in that calendar quarter, each registrant must provide to each such worker, or to the worker's designee, at termination, a written report regarding the radiation dose received by that worker from operations of the registrant during that specific identified calendar quarter or fraction thereof, or provide a written estimate of that dose if the finally determined personnel monitoring results are not available at that time. Estimated doses must be clearly indicated as such. ( )
05. Presence of Representatives of Registrants and Workers During Inspection. ( )
- a. Each registrant must afford to the Radiation Control Agency at all reasonable times opportunity to inspect machines, activities, facilities premises, and records pursuant to these rules. ( )
- b. During an inspection, Radiation Control Agency inspectors can consult privately with workers as specified in Subsection 450.06. The registrant can accompany Radiation Control Agency inspectors during other phases of an inspection. ( )
- c. If, at the time of inspection, an individual has been authorized by the workers to represent them during Radiation Control Agency inspections, the registrant must notify the inspectors of such authorization and give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions. ( )
- d. Each workers' representative must be routinely engaged in work under control of the registrant and have received instructions as specified in Subsection 450.03. ( )
- e. Different representatives of registrants and workers can accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one (1) worker's representative at a time can accompany the inspectors. ( )
- f. With the approval of the registrant and the workers' representative, an individual who is not routinely engaged in work under control of the registrant, for example, a consultant to the registrant or to the workers' representative, must be afforded the opportunity to accompany Radiation Control Agency inspectors during the inspection of physical working conditions. ( )
- g. Notwithstanding the other provisions of this Section, Radiation Control Agency inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to any area containing proprietary information, the workers' representative for that area will be an individual previously authorized by the registrant to enter that area. With regard to areas containing information classified by an agency of the U.S. Government in the interest of national security, an individual who accompanies an inspector may have access to such information only if authorized to do so. ( )

06. Consultation with Workers During Inspections. ( )

a. Radiation Control Agency inspectors can consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of Radiation Control Agency Rules to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection. ( )

b. During the course of an inspection any worker can bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which he has reason to believe could have contributed to or caused any violations of the Act, these rules, or any unnecessary exposure of an individual to radiation from a registered radiation machine under the registrant's control. Any such notice in writing must comply with the requirements of Subsection 450.07.a. ( )

c. The provisions of Subsection 450.06 must not be interpreted as authorization to disregard instructions pursuant to Subsection 450.03. ( )

07. Requests by Workers for Inspections. ( )

a. Any worker or representative of workers who believes that a violation of the Act, these rules exists or has occurred in work under a registration with regard to radiological working conditions in which the worker is engaged, can request an inspection by giving notice of the alleged violation to the Idaho Radiation Control Agency. Any such notice must be in writing, must set forth the specific grounds for the notice, and must be signed by the worker or representative of the workers. A copy must be provided to the registrant by the Radiation Control Agency no later than at the time of inspection except that, upon the request of the worker giving such notice, his name and the name of individuals referred to therein will not appear in such copy or on any record published, released, or made available by the Radiation Control Agency, except for good cause shown. ( )

b. If upon receipt of such notice, the state official determines that the complaint meets the requirements set forth in Subsection 450.07 and that there are reasonable grounds to believe that the alleged violation exists or has occurred, he must cause an inspection to be made, as soon as practicable, to determine if such alleged violation exists or has occurred. Inspections pursuant to this Section need not be limited to matters referred to in the complaint. ( )

c. No registrant can discharge or in any manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under these rules or has testified or is about to testify in any such proceeding or because of the exercise by such worker on behalf of himself or others of any option afforded by Section 450. ( )

**451. -- 995. (RESERVED).**

**996. ADMINISTRATIVE PROVISIONS.**

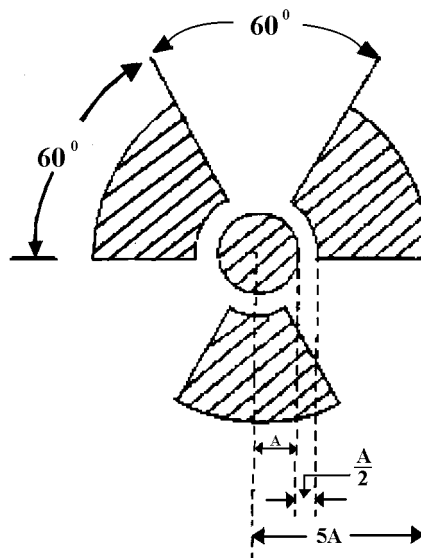
Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, Sections 000., et seq., "Rules Governing Contested Cases and Declaratory Rulings." ( )

**997. CONFIDENTIALITY OF RECORDS.**

Any disclosure of information obtained by the Department is subject to the restrictions contained in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 01, "Rules Governing the Protection and Disclosure of Department Records." ( )

**998. -- 999. (RESERVED).**

APPENDIX A



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**  
**DOCKET NO. 16-0304-9703**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective May 1, 1997 and July 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b) and 39-106(l), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 1997.

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

**DESCRIPTIVE SUMMARY:** The modification of these rules allows a household unable to apply for a Social Security number for a newborn within two months of the birth of the child to provide proof of application for an SSN at their next recertification or six months following the month the child was born, whichever is later; the equity value up to \$1,500 of one bona fide funeral agreement per household member can be excluded as a resource; the change specifies that household receiving income on a monthly or semi-monthly basis shall not have their monthly income varied because of changes in mailing cycles or pay dates; certification periods for households in which all members receive Aid to the Aged, Blind, and Disabled. Aid to the Aged, Blind and Disabled-related Medicaid or SSI can be extended up to twelve months when the application for those programs is initially approved so the Food Stamp certification period can match the redetermination date for the other program.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before July 23, 1997.

DATED this 2nd day of July, 1997.

STACI WELSH  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 334-5548 fax

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**TEXT OF DOCKET NO. 16-0304-9701**

**136. REQUIRED PROOF.**

The Department must have proof for items listed below. The Department will tell the household what proof is required.

(6-1-94)

01. Residence. Proof of residence is required. Proof includes lease agreements, rent receipts showing the address and utility bills. Proof of residence is not required for unusual cases such as homeless households, migrant farmworkers or new arrivals to a project area. (6-1-94)

02. Identity. Proof of identity is required for the applicant and representative. Proof includes a driver's license, school identification or a birth certificate. The Department can accept other proof. (6-1-94)

03. SSN. SSNs are verified by submitting the SSNs reported by the households to the SSA. An automated interface in EPICS is completed. Certification cannot be delayed to an otherwise eligible household solely to verify an SSN. An SSN is also considered verified by another program participating in IEVS. If a person is unable to provide an SSN or does not have an SSN, the Department must require proof of application for an SSN prior to certifying the person. A newborn may participate when the household cannot provide proof of application for an SSN for the newborn. Proof of application for an SSN for that child must be provided at the next recertification or six (6) months after the month the child was born, whichever is later. ~~(6-1-94)~~(7-1-97)T

04. Immigration Status. Proof of immigration status is required for all eligible legal noncitizen household members. Proof includes legal noncitizen registration cards, passports and SAVE. (4-1-97)T

05. Resources. Proof of resources is required. Proof includes bank books, bank statements or documents verifying the resource value. (6-1-94)

06. Vehicles. If questionable, proof of vehicle value is required. Proof includes NADA values and statements from car dealers. (6-1-94)

07. Loans. Proof of loans is required. A statement signed by both parties is proof of a loan. A legally binding agreement is not required. The provider of the loan must sign a statement that loan payments received on a regular basis are being made or will be made under a fixed schedule. (6-1-94)

08. Income. Proof of income is required. Proof includes wage stubs, statements from employers, income interfaces and award letters. (6-1-94)

09. Shelter Costs. Proof of shelter costs is required. The household must be told benefits will be computed, without the shelter costs, if proof is not provided. Shelter costs include home shelter expenses. Shelter costs include homes unoccupied because of employment, training away from the home or illness. Shelter costs include homes abandoned due to a natural disaster or casualty loss. Shelter cost proof is required once, unless the household has moved or reports a change in shelter costs. Proof of shelter costs includes mortgage statements, rent receipts, lease agreements, tax notices and insurance premium notices. (6-1-94)

10. Heating or Cooling Costs For Standard Utility Allowance (SUA). Proof of separate heating or cooling costs is required for the SUA. Proof of costs is required once, unless the household moves or the utilities change. Proof includes utility bills, statements from utility companies and landlords. (6-1-94)

11. Utility Costs. Proof of actual utility costs is required if the household chooses actual costs. If proof of actual utility costs is not received before thirty (30) days, the SUA will be used if the household is eligible for the SUA. Proof of actual utility costs is required if the home is not occupied. (6-1-94)

12. Dependent Care Costs. Proof of dependent care costs is required. Proof of costs is required once, unless the dependent care provider changes or the cost changes. Proof includes child care bills or statements.(6-1-94)

13. Medical Costs. Proof of incurred medical expenses is required for households claiming a medical deduction. Proof includes medical bills, medicare reimbursement statements and prescription receipts. Proof of anticipated medical expenses is not required provided the client has informed the Department of the expense and the expense is not questionable. Verification of other factors, including but not limited to the following, are required if questionable: (6-1-94)



- a. The allowability of the medical services provided. (6-1-94)
  - b. The provider qualifications. (6-1-94)
  - c. The individual's eligibility to claim a deduction. (6-1-94)
14. Disability. Proof of disability is required. Proof includes SSA verification, VA verification and statements from doctors. (6-1-94)
15. Child Support Deduction. Proof of child support payments the noncustodial parent makes is required. The parent must be legally obligated to make the child support payments. The child support payments must be made to or for a nonhousehold member. Both the legal obligation to pay child support and the actual amount paid must be verified. Proof of the legal obligation includes: Court order, divorce decree, administrative order or legally enforceable separation agreement. Proof of child support paid includes: CSS records, cancelled checks, wage withholding statements, UI withholding statements, statements from the custodial parent. Proof of legally obligated health insurance coverage on behalf of a nonhousehold child is required. Proof includes: Insurance policy, insurance company statement, employer statement. If the household fails or refuses to submit required proof, determine the household's eligibility and coupon allotment without the child support deduction. If there is a discrepancy between information provided by the household and CSS, the household must be given an opportunity to resolve the discrepancy. Proof of child support payment is required at each certification. Proof of changes in the amount of legally obligated child support ordered or the amount of child support paid must be obtained at recertification. If the amount of legally obligated child support ordered or the amount of child support the household pays has not changed, require proof at recertification only if the information is questionable. (5-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**159. SSN FOR EXPEDITED FOOD STAMPS.**

The household must furnish or apply for a SSN for each person before the ~~first~~second full month of Food Stamps. Household members unable to provide SSNs before the end of the ~~first~~second full month of Food Stamps, and not having good cause for the SSN problem, cannot continue to get Food Stamps. A newborn may participate when the household cannot provide proof of application for an SSN for the newborn. Proof of application for an SSN for that child must be provided at the next recertification or six (6) months after the month the child was born, whichever is later. (~~7-1-97~~)(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**177. FOOD STAMPS FOR ~~AFDC~~TAFI OR AABD HOUSEHOLDS.**

The Department will tell ~~AFDC~~TAFI or AABD applicants they can apply for Food Stamps when they apply for ~~AFDC~~TAFI or AABD. Households, applying for ~~AFDC~~TAFI or AABD and Food Stamps at the same time, must complete an application for ~~AFDC~~TAFI or AABD and Food Stamps. ~~AFDC or AABD households must not be required to see more than one (1) Examiner or have more than one (1) interview to apply for AFDC or AABD and Food Stamps. One (1) Department Examiner will conduct an interview for both programs.~~ Households may be eligible for an out-of-office interview. The Food Stamps must be issued by Food Stamp rules. (~~9-1-94~~)(7-1-97)T

**178. CATEGORICALLY ELIGIBLE HOUSEHOLDS.**

Households with all members meeting one (1) of the criteria below are categorically eligible for Food Stamps. Categorically eligible households are resource and income eligible. The Department will not compute resource eligibility. The Department will not compute gross or net income eligibility. Categorically eligible households must meet all other Food Stamp eligibility criteria. Categorically eligible households have the same rights as other households. (6-1-94)

01. Cash Benefits. All household members are approved for, or already get, ~~AFDC~~TAFI or AABD or SSI cash benefits. The household is categorically eligible. ~~(9-1-94)~~(7-1-97)T

~~02. Approved For Cash Benefits. All household members are approved to get AFDC or AABD or SSI cash benefits. The household is categorically eligible. (9-1-94)~~

032. Benefits Recouped. All household members have ~~AFDC~~ or AABD or SSI benefits being recouped. The household is categorically eligible. ~~(9-1-94)~~(7-1-97)T

043. Grant Less Than Ten Dollars (\$10). All household members not getting ~~AFDC~~TAFI or AABD or SSI because their grant is less than ten dollars (\$10). The household is categorically eligible. ~~(9-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**180. CATEGORICAL ELIGIBILITY ENDS.**

Categorical eligibility ends when one household member is no longer eligible for ~~AFDC~~TAFI, AABD or SSI. If the household is still eligible under Food Stamp rules, the household will continue to get Food Stamps. If categorical eligibility ends and household income or resources exceed the Food Stamp limits, the household is no longer eligible for Food Stamps. Food Stamps will stop after timely advance notice. ~~(9-1-94)~~(7-1-97)T

**181. MIXED HOUSEHOLDS.**

Households with at least one (1) member meeting the conditions below are mixed households. Resources of members meeting the conditions below are excluded. Resources of the other household members are counted. (6-1-94)

01. Cash Benefits. Household member is approved for, or already gets, ~~AFDC~~TAFI or AABD or SSI cash benefits. ~~(9-1-94)~~(7-1-97)T

~~02. Approved For Cash Benefits. Household member approved to get AFDC or AABD or SSI cash benefits. (9-1-94)~~

032. Benefits Recouped. Household member has ~~AFDC~~ or AABD or SSI benefits being recouped. ~~(9-1-94)~~(7-1-97)T

043. Grant Less Than Ten Dollars (\$10). Household member not getting ~~AFDC~~TAFI or AABD or SSI because the grant is less than ten dollars (\$10). ~~(9-1-94)~~(7-1-97)T

**182. VERIFICATION FOR ~~AFDC~~TAFI OR AABD HOUSEHOLDS.**

To determine eligibility for Food Stamps in ~~AFDC~~TAFI or AABD households, use ~~AFDC~~TAFI or AABD proof. Do not delay Food Stamps beyond thirty (30) days after the application date. ~~(9-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**184. CATEGORICALLY ELIGIBLE HOUSEHOLDS DENIED FOOD STAMPS.**

If the Food Stamp application was denied and the entire household is later found eligible for ~~AFDC~~TAFI, AABD or SSI, the Department will provide benefits and must not require a new application. The household will update the application using new information. Application changes must be initialed by the household member or representative. The updated application must be signed by a household member or representative. The Department will not interview the applicant again. The Department will issue Food Stamps from the later of the Food Stamp application date or PA eligibility date. If a resident of a public institution applies jointly for SSI and Food Stamps before release, Food Stamps are issued from the release date. ~~(9-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**195. DISASTER CERTIFICATION.**

When allowed by FNCs, under the authority of Section 302(a) of the Disaster Relief Act of 1974, the Department can certify households affected by a natural disaster. If the Secretary of USDA declares a disaster area, the Department will follow disaster instructions issued by the USDA. ~~(6-1-94)(7-1-97)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**203. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.**

Before certification, households must provide the Department the SSN, or proof of application for SSN, for each household member. If a household member has more than one (1) SSN, he must provide all of his SSNs. ~~Document the SSNs in the case file.~~ ~~(6-1-94)(7-1-97)T~~

01. Religious Objection. Households declaring a valid religious objection to getting or providing an SSN may get Food Stamps, if otherwise eligible. Document the valid reason for the SSN objection. Tell the household SSNs may be assigned to household members without their cooperation. Tell the household other sources may be used to get SSN data. (6-1-94)

02. Apply for SSN. If a household member does not have an SSN, he must apply for an SSN. After the member files the SSN application, he may get Food Stamps while the SSN is assigned. If a household member is unable to provide his SSN, he must apply for a duplicate SSN card. If a household member does not know if he has an SSN, he must apply for an SSN. If a household member has a questionable SSN he must apply for an SSN. SSN application process and proof is listed below: (7-1-97)

a. Application for SSN or duplicate SSN card. For the household member with a SS card, the Department must tell the household an SS-5 Application for SSN must be filed at an SSA office, give the household an HW 0446 Social Security Number Referral form tell the household proof of age, identity, and citizenship must be provided to the SSA. (6-1-94)

b. Proof of SSN application. The household must prove it applied for an SSN by giving one (1) of three (3) forms to the Department: A completed HW 0446 Social Security Number Referral, signed and dated by SSA, a completed SSA-5028 Evidence of Application for Account Number Card, signed and dated by SSA, a completed SSA-2853 Message From Social Security, signed and dated by a hospital representative. The acquired SSN card is proof of application. (6-1-94)

03. Proof of Application for an SSN for a Newborn. A newborn may participate when the household cannot provide proof of application for an SSN for the newborn. Proof of application for an SSN for that child must be provided at the next recertification or six (6) months after the month the child was born, whichever is later. If the household does not provide proof, treat the child as a disqualified household member the month following the month the household failed to provide the proof. (7-1-97)T

~~034.~~ Expedited Services SSN Requirements. Households getting expedited services must furnish an SSN or apply for an SSN for each person before the first full month of Food Stamp participation. If the application date is the first day of the month and proof is delayed, the household is assigned a normal certification period. For a household applying on the first day of the month, if the SSN or application for SSN is not provided for a household member during the first month, the person is treated as an excluded household member beginning the second month. A newborn may participate when the household cannot provide proof of application for an SSN for the newborn. Proof of application for an SSN for that child must be provided at the next recertification or six (6) months after the month the child was born, whichever is later. ~~(10-1-94)(7-1-97)T~~

045. Refusal or Failure to Provide SSN. Refusal or failure, without good cause, to provide an SSN will end benefits of the person without an SSN. Refusal or failure, without good cause, to apply for an SSN, will end benefits of the person without an SSN. The person is not eligible until an SSN is provided or application is made. The

disqualified person's income and resources must be counted in the Food Stamp budget. Explain these penalties to the household. If benefits are reduced or ended, because one (1) or more persons fail to meet the SSN requirement, send a Notice of Decision. The notice includes the name of the disqualified household member, the reason and the new household benefit. The notice tells the household the actions they must take to get Food Stamps for the disqualified member. (6-1-94)

**056.** Good Cause for Not Applying for SSN. If a member can show good cause why an SSN application was not completed, within the application month, the member can participate for an additional month. Good Cause is described below: (6-1-94)

a. Good cause exists if the HW 0446 or other documents show the household submitted form SS-5 to the SSA, but the SS-5 was not processed in a timely manner by the SSA. Once the SS-5 has been filed and accepted by the SSA, the member can be eligible until the SS-5 is processed. (6-1-94)

b. Good cause exists if documents or collateral data show the household applied for, or made every effort to apply for, an SSN. (6-1-94)

c. Good cause does not include household-caused delays due to illness, lack of transportation, or temporary absences. (6-1-94)

**067.** Person Unable to Get Proof for SSA. If the person is unable to get the proof required by SSA for an SSN, the Department will help the person get proof. (6-1-94)

**078.** Good Cause Extension. If the person cannot get an SSN in the application month, and good cause exists, a one (1) month extension must be granted to allow the person to get Food Stamps until the SSN is received. (6-1-94)

**089.** SSN Proof Required. Verify all SSNs, or application for SSNs, for each household member. SSNs are proved through Numident. (6-1-94)

**109.** SSN Not Proved Due to Numident Discrepancy. If there is a Numident discrepancy take the action listed below: (6-1-94)

a. Notify household. Notify the household, in writing, they must submit a corrected SS-5 and supporting data to SSA within ten (10) calendar days. Notify the household Food Stamps will end if the Department does not have proof the SS-5 was submitted to SSA within ten (10) calendar days. (6-1-94)

b. Evaluate good cause. Determine good cause for refusal to cooperate if a household claims it cannot submit the SS-5 and supporting data to SSA. If the supporting data has been destroyed good cause may exist. (6-1-94)

c. End benefits. Close the case after timely notice if the household refuses to cooperate. Refusal to cooperate means the household fails or refuses to submit the SS-5 and required proof to SSA, without good cause. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**227. EXEMPTIONS FROM JSAP.**

Household members listed below are exempt from JSAP registration and participation. (6-1-94)

**01.** Parents and Caretakers of Child Under Six (6) Years of Age. A parent or caretaker responsible for the care of a dependent child under age six (6). If the child becomes six (6) during the certification period, the parent or caretaker must register at the next scheduled recertification, unless exempt for another reason. (6-1-94)

02. Parents and Caretakers of An Incapacitated Person. A parent or caretaker responsible for the care of a person incapacitated due to illness or disability. (6-1-94)

03. Incapacitated Person. A person physically or mentally unfit for employment. If a disability is claimed which is not evident, proof to support the disability can be required. Proof includes, but is not limited to, receipt of permanent or temporary disability benefits, or a statement from a physician or licensed or certified psychologist. (6-1-94)

04. Persons Enrolled Half Time. Persons enrolled at least half-time in any recognized school, training programs or institutes of higher education. To be exempt from work registration, students enrolled at least half-time in an institution of higher education must meet the FNCS student definition. (7-1-97)(7-1-97)T

05. SSI Applicant. A person applying for SSI may have registration waived until determined SSI eligible and exempt from JSAP. A person applying for SSI may have registration waived until determined SSI ineligible and must register for JSAP. (6-1-94)

06. Employed Person. An employed person is working at least thirty (30) hours per week, or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. An employed person is also a migrant or seasonal farm worker under contract or agreement to begin employment within thirty (30) days. (6-1-94)

07. Self-Employed Person. A person is self-employed if he is working a minimum of thirty (30) hours per week or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. (6-1-94)

08. Addicts or Alcoholics. Regular participants in a drug or alcoholic treatment and rehabilitation program are exempt from JSAP. (6-1-94)

09. Unemployment Insurance (UI) Applicant/Recipient. A person getting UI is exempt from JSAP. A person applying for, but not getting UI, if required to register for work with the DOE as part of the UI application process is exempt from JSAP. (6-1-94)

10. ~~AFDC or AFDC-UP Clients in JOBS TAFI Participants. AFDC or AFDC-UP recipients complying with the JOBS Program are exempt from JSAP. Persons referred to JOBS but not yet registered are exempt from JSAP. The client is not exempt if the EE is notified the client has failed to comply with JOBS requirements. This exemption does not apply to AFDC-UP recipients getting Medicaid, but not getting cash benefits. TAFI participants complying with the program's work requirements are exempt. The exemption ends if the participant fails to comply with the TAFI work requirements.~~ (6-1-94)(7-1-97)T

11. Children Under Sixteen (16) Years of Age. Persons younger than sixteen (16) are exempt from JSAP. If a child turns sixteen (16) within a certification period, he must register at recertification, unless exempt for another reason. (6-1-94)

12. Sixteen (16) or Seventeen (17) Year Old. A household member age sixteen (16) or seventeen (17) is exempt if the person is: Not the head of the household or attending school at least half-time or enrolled in an employment and training program at least half-time. (6-1-94)

13. Age Sixty (60) or Older. A person sixty (60) or older is exempt from JSAP. (6-1-94)

14. ~~AFDC-UP Recipients Participating in Work and Training. AFDC-UP clients living in non-JOBS areas who registered for work at Job Service are exempt from JSAP.~~ (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**237. ~~JOBS~~TAFI OR UNEMPLOYMENT INSURANCE (UI) WORK REQUIREMENTS.**

Household members, exempt from work registration due to UI or ~~JOBS~~TAFI work requirements, must comply with

UI or JOBSTAFI conditions. JSAP requirements must be comparable to UI or JOBSTAFI work requirements.

~~(6-1-94)~~(7-1-97)T

**238. COMPARE UI AND JOBSTAFI WORK REQUIREMENTS TO JSAP REQUIREMENTS.**

Compare UI and JOBSTAFI work requirements to JSAP requirements. Assure UI or JOBSTAFI work requirements do not exceed JSAP requirements when a household member refuses or fails without good cause to comply with UI or JOBSTAFI work requirements. Assure UI or JOBSTAFI work requirements do not exceed JSAP requirements when a household member loses or is denied AFDC, AFDC-UP, TAFI due to failure to comply with UI or JOBSTAFI work requirements. When the UI or JOBSTAFI work requirements exceed JSAP requirements sanctions cannot be imposed.

**239. SANCTIONS FOR FAILURE TO COMPLY WITH JOBSTAFI WORK OR UI REQUIREMENTS.**

When the Department finds a member failed or refused to comply, with UI or JOBSTAFI work requirements, without good cause, sanctions listed in Subsections 239.01 through 239.03 must be applied.

~~(1-1-95)~~(7-1-97)T

01. Head of Household. If the noncomplying member is the head of the household, the entire household will be ineligible. The household is not eligible until the conditions for ending JOBSTAFI work requirement or UI sanctions are met.

~~(1-1-95)~~(7-1-97)T

02. Not Head of Household. If the noncomplying member is not the head of the household, the person is excluded as a household member. The person cannot get Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. Exclusion continues until conditions for ending JOBSTAFI work requirement or UI sanctions are met.

~~(1-1-95)~~(7-1-97)T

03. Joins Another Household. If a sanctioned household member leaves the original household and joins another Food Stamp household, sanctions apply: As head of household, the entire new household is ineligible for the remainder of the sanction period or until other conditions for ending JOBSTAFI work requirement or UI sanctions are met. If not the head of household, the person is treated as an excluded household member. The person cannot get Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. The person is excluded for the rest of the sanction period, or until conditions for ending JOBSTAFI work requirement or UI sanctions are met.

~~(1-1-95)~~(7-1-97)T

**240. ENDING SANCTIONS FOR FAILURE TO COMPLY WITH JOBSTAFI WORK OR UI REQUIREMENTS.**

Households or household members sanctioned for not complying with JOBSTAFI work or UI requirements are ineligible until one (1) of the conditions listed in Subsections 240.01 through 240.05 is met.

~~(1-1-95)~~(7-1-97)T

01. Fair Hearing Reversal. Sanction ends if a fair hearing reverses the sanction. (6-1-94)

02. Sanctioned Member Becomes Exempt. Sanction ends if the sanctioned member becomes exempt from work registration. (6-1-94)

03. Sanctioned Member Leaves Household. Sanction ends if the sanctioned member leaves the Household. (6-1-94)

04. Six (6) Months Elapse for Sanctioned Household. The household's sanction ends if six (6) months elapse. (9-22-96)T

05. Member Complies with JOBSTAFI work or UI. Sanction ends if the member who refused to comply with a JOBSTAFI work or UI requirement, complies by completing or resuming the assignment and has served the minimum sanction period. This must be proved by JOBSTAFI or UI staff. ~~(9-22-96)T~~(7-1-97)T

**241. NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH JOBSTAFI WORK OR UI REQUIREMENTS.**

Send the household a Notice of Decision when a client fails to comply with JOBSTAFI work or UI requirements. The notice must be sent within ten (10) working days of the date the Department finds the household did not comply, without good cause. The notice must contain information listed below:

~~(6-1-94)~~(7-1-97)T

01. Sanction Period. The Notice of Decision must give the proposed sanction period. (6-1-94)
02. Reason for Sanction. The Notice of Decision must give the reason for sanction. (6-1-94)
03. Ability to Reapply after Sanction. The Notice of Decision must tell the household or disqualified member they may reapply when the sanction period ends. (6-1-94)
04. Actions to End Sanction. The Notice of Decision must give the actions the sanctioned person must take to end the sanction. (6-1-94)
05. Right to Appeal. The Notice of Decision must tell the household of it's right to a fair hearing. The household may contest a decision of mandatory status, or a denial, reduction, or termination of benefits, due to failure to comply with JOBSTAFI work or UI requirements. ~~(6-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**246. HOUSEHOLD MEMBERS EXEMPT FROM WORK REGISTRATION IN NON-JSAP COUNTIES.**  
Household members listed below are exempt from work registration. (6-1-94)

01. Parents and Caretakers of Child Under Six (6) Years of Age. A parent or caretaker responsible for the care of a dependent child under age six (6). If the child becomes six (6) during the certification period, the parent or caretaker must register at the next scheduled recertification, unless exempt for another reason. (6-1-94)
02. Parents and Caretakers of An Incapacitated Person. A parent or caretaker responsible for the care of a person incapacitated due to illness or disability. (6-1-94)
03. Incapacitated Person. A person physically or mentally unfit for employment. If a disability is claimed which is not evident, proof to support the disability can be required. Proof includes, but is not limited to, receipt of permanent or temporary disability benefits, or a statement from a physician or licensed or certified psychologist. (6-1-94)
04. Persons Enrolled Half Time. Persons enrolled at least half-time in any recognized school, training programs or institutes of higher education. To be exempt from work registration, students enrolled at least half time in an institution of higher education must meet the FNCS student definition. ~~(7-1-97)~~(7-1-97)T
05. SSI Applicant. A person applying for SSI may have work registration waived until determined SSI eligible and exempt. A person applying for SSI may have work registration waived until determined SSI ineligible and then must register. (6-1-94)
06. Employed Person. An employed person is working at least thirty (30) hours per week, or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. An employed person is also a migrant or seasonal farm worker under contract or agreement to begin employment within thirty (30) days. (6-1-94)
07. Self-Employed Person. A person is self-employed if he is working a minimum of thirty (30) hours per week or receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours. (6-1-94)
08. Addicts or Alcoholics. Regular participants in a drug or alcoholic treatment and rehabilitation program are exempt. (6-1-94)
09. Unemployment Insurance (UI) Applicant/Recipient. A person getting UI is exempt. A person applying for, but not getting UI, if required to register for work with the DOE as part of the UI application process. (6-1-94)

10. ~~AFDC or AFDC-UP Clients in JOBSTAFI Participants. AFDC or AFDC-UP recipients complying with the JOBS Program are exempt. Persons referred to JOBS but not yet registered are exempt. The client is not exempt if the EE is notified the client has failed to comply. This exemption does not apply to AFDC-UP recipients getting Medicaid, but not getting cash benefits. TAFI participants complying with the program's work requirements are exempt. The exemption ends if the participant fails to comply with the TAFI work requirements.~~

~~(6-1-94)(7-1-97)T~~

11. Children Under Sixteen (16) Years of Age. Persons younger than sixteen (16) are exempt. If a child turns sixteen (16) within a certification period, he must register at recertification, unless exempt for another reason.

(6-1-94)

12. Sixteen (16) or Seventeen (17) Year Old. A household member age sixteen (16) or seventeen (17) is exempt if the person is not the head of the household. A household member age sixteen (16) or seventeen (17) is exempt if the person is attending school at least half-time. A household member age sixteen (16) or seventeen (17) is exempt if the person is enrolled in an employment and training program at least half-time.

(6-1-94)

13. Age Sixty (60) or Older. A person sixty (60) or older is exempt.

(6-1-94)

14. ~~AFDC-UP Cash Recipients. AFDC-UP persons getting cash payments are exempt.~~

~~(6-1-94)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**276. FAILURE TO COMPLY WITH A REQUIREMENT OF ANOTHER MEANS-TESTED PROGRAM.**

Food Stamps must not increase when a failure to comply causes other means-tested benefits to decrease. Benefits from means-tested programs like ~~AFDC~~TAFI and SSI may decrease due to failure to comply with a program requirement. Food Stamp benefits must not increase because of this income loss. If a reduction in benefits from another means-tested program occurs, verify the reason for the reduction. If the reason for the reduction cannot be verified, document the case record to reflect the good faith effort to verify the information. ~~(9-22-96)T(7-1-97)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**284. DETERMINING STUDENT ELIGIBILITY.**

To be eligible for Food Stamps, a student must meet at least one (1) of the criteria listed below: (6-1-94)

01. Employment. The student is employed a minimum of twenty (20) hours per week and is paid for such employment. The student is self-employed a minimum of twenty (20) hours per week. The student must earn at least the Federal minimum wage times twenty (20) hours. (6-1-94)

02. Work Study Program. The student is in a State or Federally financed work study program during the regular school year. The student exemption begins the month the school term begins, or the month the work study is approved, whichever is later. The exemption continues until the end of the month the school term ends, or it becomes known the student has refused an assignment. The student work study exemption stops when there are breaks of a full calendar month or longer between terms, without approved work study. The exemption only applies to months the student is approved for work study. (7-1-97)

03. Caring for Dependent Child. The student is responsible for the care of a dependent household member under age six (6). There must not be another adult in the household available to care for the child. Availability of adequate child care is not a factor. The student is responsible for the care of a dependent household member at least age six (6) but under age twelve (12). The Department must determine adequate child care is not available to enable the student to attend class and satisfy the twenty (20) hour work requirement. The student must be a single parent responsible for the care of a dependent child under the age of twelve (12). The student is enrolled full-



time in an institution of higher education. Full-time enrollment is determined by the institution. Availability of adequate child care is not a factor. (6-1-94)

04. ~~AFDC or AFDC-UP Recipient~~ TAFI Participant. The student gets cash benefits from the ~~AFDC/TAFI program or AFDC-UP programs.~~ (6-1-94)(7-1-97)T

05. Training. The student is assigned to or placed in an institution of higher education through or complying with: The JTPA program. The JOBS program. The JSAP program. A program under Section 236 of the Trade Act of 1974. A program for employment and training operated by a State or local government. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**302. CATEGORICALLY ELIGIBLE HOUSEHOLD.**

Households are exempt from resource limit if all members are authorized to receive ~~AFDC/TAFI~~, AABD, or SSI. (9-1-94)(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**356. BURIAL SPACE OR PLOT AND FUNERAL AGREEMENT EXCLUSIONS.**

~~One (1) burial space for each household member is an excluded resource regardless of value. Burial spaces or plots and funeral agreements are excluded from resources as listed in Subsections 356.01 through 356.02.~~ (6-1-94)(5-1-97)T

01. Burial Space or Plot Exclusion. Exclude one (1) burial space or plot, for each household member, from resources. The value of the burial space or plot does not affect this exclusion. (5-1-97)T

02. Funeral Agreement Exclusion. Exclude up to one thousand, five hundred dollars (\$1,500) of the equity value of one (1) bona fide funeral agreement, for each household member, from resources. The equity value over one thousand, five hundred dollars (\$1,500) is counted as a resource. (5-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**382. RESOURCES EXCLUDED BY FEDERAL LAW.**

Resources listed below are excluded by Federal law: (6-1-94)

01. P.L. 91-646. Reimbursements under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970. (6-1-94)

02. P.L. 92-203. The Alaska Native Claims Settlement Act. (6-1-94)

03. P.L. 93-134 As Amended By P.L. 103-66. Effective January 1, 1994, interest of individual Indians in trust or restricted lands. (6-1-94)

04. P.L. 93-288 as amended by P.L. 100-707. Payments from Disaster Relief and Emergency Assistance. (6-1-94)

05. P.L. 93-531. Relocation assistance to Navajo and Hopi tribal members. (6-1-94)

06. P.L. 94-114. The submarginal lands held in trust by the U.S. for certain Indian tribal members.

- (6-1-94)
07. P.L. 94-189. The Sac and Fox Indian Claims Agreement. (6-1-94)
08. P.L. 94-540. Funds to the Grand River Band of Ottawa Indians. (6-1-94)
09. P.L. 95-433. The Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission. (6-1-94)
10. P.L. 96-420. The Passamaquoddy Tribe and Penobscot Nation funds paid under the Maine Indian Claims Settlement Act of 1980. (6-1-94)
11. P.L. 97-403. Payments to the Turtle Mountain Band of Chippewas, Arizona. (6-1-94)
12. P.L. 97-408. Payments to the Blackfeet, Gros Ventre and Asiniboine Tribes, Montana and the Papago Tribe, Arizona. (6-1-94)
13. P.L. 98-64 & P.L. 97-365. Up to two thousand dollars (\$2,000) of any per capita payment, and any purchases made with such payment, from funds held in trust by the Secretary of the Interior. (6-1-94)
14. P.L. 98-123. Funds awarded to members of the Red Lake Band of Chippewa Indians. (6-1-94)
15. P.L. 98-500. Funds provided to heirs of deceased Indians under the Old Age Assistance Claims Settlement Act, except for per capita shares in excess of two thousand dollars (\$2,000). (6-1-94)
16. P.L. 99-264. Payments to the White Earth Band of Chippewa Indian Tribe, Michigan. (6-1-94)
17. P.L. 99-346. Payments to the Saginaw Chippewa Indian Tribe, Michigan. (6-1-94)
18. P.L. 99-498 & P.L. 102-523 Student Loans. Financial assistance funded in whole or in part under Title IV of the Higher Education Act. (6-1-94)
19. P.L. 101-41. Payments to the Puyallup Tribe of Indians, Washington. (6-1-94)
20. P.L. 101-277. Payments to the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Florida and the Independent Seminole Indians of Florida. (6-1-94)
21. P.L. 101-426. Payments from the Radiation Exposure Compensation Act. (6-1-94)
22. P.L. 102-237. Resources of any mixed household member who gets AFDC, AFDC-UP, TAFI or SSI. ~~(6-1-94)~~ (7-1-97)T
23. P.L. 103-286. Effective 8-1-94, payments made to victims of Nazi persecution. (1-1-95)
24. P.L. 103-436. Payments to the Confederated Tribes of the Colville Reservation for the Grand Coulee Dam Settlement. (7-1-97)
25. Civil Liberties Act of 1988. Restitution payments to persons of Japanese ancestry who were evacuated, relocated and interned during World War II as a result of government action. These payments are also excluded when paid to the statutory heirs of deceased internees. (6-1-94)
26. SSI Payments Under Zebley v. Sullivan Ruling. Retroactive lump sum SSI payments, for childhood disability, paid as a result of the Zebley v. Sullivan ruling. The payments are excluded resources for six (6) months from receipt. (6-1-94)
27. BIA Education Grant. Bureau of Indian Affairs (BIA) Higher Education Grant Program. (6-1-94)

28. WIC. Benefits from the Women, Infants, and Children (WIC) Program. (6-1-94)
29. JTPA. Payments from the Job Training Partnership Act (JTPA) (6-1-94)
30. Energy Assistance. Payments from Federal, state, or local energy assistance, including insulation and weatherization payments. (6-1-94)
31. HUD Payments. HUD retroactive subsidy payments for tax and utilities are excluded the month received and the next month. (6-1-94)
32. Agent Orange Settlement Fund. Product liability payments, made by Aetna Life and Casualty from the Agent Orange Settlement Fund. Effective January 1, 1989. (6-1-94)
33. Federal EITC. Federal Earned Income Tax Credit (EITC) is excluded for the month of receipt and the following month. Federal EITC is excluded for twelve (12) months from receipt if the household member receives EITC while participating in the Food Stamp program. The exclusion continues only while the household participates in the Food Stamp program without a break, for up to twelve (12) months. The month of receipt is the first month of the exclusion. (1-1-95)

**(BREAK IN CONTINUITY OF SECTIONS)**

**402. UNEARNED INCOME.**

Unearned income includes, but is not limited to income listed below: (6-1-94)

01. Public Assistance (PA). Payments from SSI, ~~AFDC/TAFI~~, AABD, GA, or other Public Assistance programs are unearned income. ~~(6-1-94)~~(7-1-97)T
02. Retirement Income. Payments from annuities, pensions, and retirement are unearned income. Old age, survivors, or Social Security benefits are unearned income. (6-1-94)
03. Strike Benefits. Strike benefits are unearned income. (6-1-94)
04. Veteran's Benefits. Veteran's benefits are unearned income. (6-1-94)
05. Disability Income. Disability benefits are unearned income. (6-1-94)
06. Workers' Compensation. Workers' Compensation is unearned income. (6-1-94)
07. Unemployment Insurance. Unemployment Insurance is unearned income. (6-1-94)
08. Contributions. Contributions are unearned income (6-1-94)
09. Rental Property Income. Rental property income, minus the cost of doing business, is unearned income if a household member is not managing the property at least twenty (20) hours per week. (6-1-94)
10. Support Payments. Support payments, including child support payments, are unearned income. (6-1-94)
11. Alimony. Alimony payments are unearned income. (6-1-94)
12. Education Benefits. Educational scholarships, grants, fellowships, deferred payment loans, and veteran's educational benefits exceeding excluded amounts are unearned income. (6-1-94)
13. Government Sponsored Program Payments. Payments from government sponsored programs are

- unearned income. (6-1-94)
14. Dividends, Interest, and Royalties. Dividends, interest, and royalties are unearned income. (6-1-94)
15. Contract Income. Contract income from the sale of property is counted as unearned income. (6-1-94)
16. Funds from Trusts. Monies withdrawn from trusts exempt as a resource are unearned income. Dividends paid or dividends that could be paid from trusts exempt as a resource are unearned income. (7-1-97)
17. Recurring Lump Sum Payments. Recurring lump sum payments, such as child support pass through payments, are unearned income. ~~(6-1-94)~~(7-1-97)T
18. Prizes. Cash prizes, gifts and lottery winnings are unearned income. (6-1-94)
19. Diverted Support or Alimony. Child support or alimony payments, diverted by the provider to a third party, to pay a household expense are unearned income. (6-1-94)
20. HUD Payments for Utilities. Housing and Urban Development (HUD) payments for utility costs, made directly to the household or jointly to the household and utility company, are unearned income. (6-1-94)
21. Agent Orange Payments. Payments made under the Agent Orange Act of 1991 and disbursed by the U.S. Treasury are unearned income. (6-1-94)
22. Garnishments. Garnishments from unearned income are unearned income. (6-1-94)
23. Other Monetary Benefits. Any monetary benefit, not otherwise counted or excluded, is unearned income. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**405. EXCLUDED INCOME.**

Income excluded when computing Food Stamp eligibility is listed below: (6-1-94)

01. Money Withheld. Money withheld voluntarily or involuntarily, from an assistance payment, earned income, or other income source, to repay an overpayment from that income source, is excluded. If an intentional noncompliance penalty results in a decrease of benefits under a means tested program such as SSI, AFDC, or GA, count that portion of the benefit decrease attributed to the repayment as income. ~~(6-1-94)~~(7-1-97)T

02. Child Support Payments. Child support payments received by ~~AFDC/TAFI~~ recipients which must be given to BCSS are excluded as income. ~~Child support pass through payments are unearned income.~~ ~~(6-1-94)~~(7-1-97)T

03. Earnings of Child Under Age Eighteen (18) Attending School. Earned income of a household member under age eighteen (18) is excluded. The member must be under parental control of another household member and attending elementary or secondary school. For the purposes of this provision, an elementary or secondary student is someone who attends elementary or secondary school or who attends GED or home-school classes that are recognized, operated, or supervised by the school district. This exclusion applies during semester and summer vacations if enrollment will resume after the break. If the earnings of the child and other household members cannot be differentiated, prorate equally among the working members and exclude the child's share. (3-1-97)T

04. Retirement Benefits Paid to Former Spouse or Third Party. Social Security retirement benefits based on the household member's former employment, but paid directly to an ex-spouse, are excluded as the household member's income. Military retirement pay diverted by court order to a household member's former spouse

is excluded as the household member's income. Any retirement paid directly to a third party from a household member's income by a court order is excluded as the household member's income. (6-1-94)

05. Infrequent or Irregular Income. Income received occasionally is excluded as income if it does not exceed thirty dollars (\$30) total in a three (3) month period. (6-1-94)

06. Cash Donations. Cash donations based on need and received from one (1) or more private nonprofit charitable organizations are excluded as income. The donations must not exceed three hundred dollars (\$300) in a calendar quarter of a Federal fiscal year (FFY). (6-1-94)

07. Income In Kind. Any gain or benefit, such as meals, garden produce, clothing, or shelter, not paid in money, is excluded as income. (6-1-94)

08. Vendor Payments. Vendor payments are monies not legally obligated to the household. Vendor payments are paid directly to a third party by a non-household member. Vendor payments include, but are not limited to: (6-1-94)

a. Housing or rent paid by an employer to a third party when the housing is in addition to obligated wages. (6-1-94)

b. Payments to a third party for a household expense. The payments must be made by a nonhousehold member not legally bound to pay. (6-1-94)

c. Vendor payments for transitional housing for the homeless are not excluded as income. (9-22-96)T

09. Loans. Loans are money received which is to be repaid. Loans are excluded as income. (6-1-94)

10. Money for Third Party Care. Money received and used for the care and maintenance of a third party who is not in the household. If a single payment is for both household members and nonhousehold members the identifiable portion of the payment for nonhousehold members is excluded. If a single payment is for both household members and nonhousehold members, exclude the lesser of: (6-1-94)

a. The prorated share of the nonhousehold members if the portion cannot be identified. (6-1-94)

b. The amount actually used for the care and maintenance of the nonhousehold members. (6-1-94)

11. Reimbursements. Reimbursements for past or future expenses not exceeding actual costs. Payments must not represent a gain or benefit. Payments must be used for the purpose intended and for other than normal living expenses. Excluded reimbursements are not limited to: (6-1-94)

a. Travel, per diem, and uniforms for job or training. (6-1-94)

b. Out-of-pocket expenses of volunteer workers. (6-1-94)

c. Medical and dependent care expenses. (6-1-94)

d. Pay for services provided by Title XX of the Social Security Act. (6-1-94)

e. Repayment of loans made by the household from their personal property limit. The repayment must not exceed the amount of the loan. (6-1-94)

f. Work-related and dependent care expenses paid by the JSAP program. (6-1-94)

g. Transitional child care payments. (6-1-94)

h. Child care payments under the Child Care and Dependent Block Grant Act of 1990. (6-1-94)

12. Federal Earned Income Tax Credit (EITC). Federal EITC payments are excluded as income. (9-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**408. IEVS INFORMATION SOURCES.**

IEVS data sources are listed below: (6-1-94)

01. Department of ~~Employment Labor~~ DOEL. Wage data collected and maintained by the Department of ~~Employment Labor~~ DOEL or its counterpart agency in another State is source for IEVS data. ~~(6-1-94)~~(7-1-97)T

02. Unemployment Insurance Benefit (UIB). Unemployment Insurance Benefit (UIB) data maintained by the DOEL or its counterpart agency in another State is a source of IEVS data. ~~(6-1-94)~~(7-1-97)T

03. Beneficiary Earnings Exchange Record (BEER). Net earnings data from self-employment and wages accessed through the Beneficiary Earnings Exchange Record (BEER) is a source of IEVS data. (6-1-94)

04. Benefit Data Exchange (BENDEX). Retirement income payment data maintained by the Social Security Administration (SSA) and accessed through the Benefit Data Exchange (BENDEX) is a source of IEVS data. (6-1-94)

05. State Data Exchange (SDX). Benefit data from SSA under Titles II and XVI of the Social Security Act, accessed through the State Data Exchange (SDX), is a source of IEVS data. (6-1-94)

06. Internal Revenue Service (IRS). Unearned income data from Internal Revenue Service (IRS) files is a source of IEVS data. (6-1-94)

07. Numident. Social Security Numbers (SSN) verified from SSA files through Numident are a source of IEVS data. (6-1-94)

08. Idaho Assistance Programs. State run ~~AFDCTAFI~~, AABD, and Medicaid programs in Idaho are a source of IEVS data. ~~(6-1-94)~~(7-1-97)T

09. Systematic Alien Verification for Entitlements (SAVE). Immigration data accessed through INS Systematic Alien Verification for Entitlements (SAVE) is a source of IEVS data. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**411. VERIFIED IEVS DATA.**

The IEVS data listed below is considered verified upon receipt, unless it is questionable: (6-1-94)

01. Benefit Data Exchange (BENDEX). BENDEX Social Security retirement and disability income data. (6-1-94)

02. State Data Exchange (SDX). Benefit and eligibility data from SSA under Titles II and XVI of the Social Security Act accessed through the State Data Exchange (SDX). (6-1-94)

03. Unemployment Insurance Benefits (UIB). Unemployment Insurance Benefit (UIB) data maintained by the DOEL or its counterpart agency. ~~(6-1-94)~~(7-1-97)T

04. ~~AFDCTAFI, Aid to Families with Dependent Children~~ Temporary Assistance for Families in Idaho.

~~(6-1-94)~~(7-1-97)T

- 05. AABD. Aid to the Aged, Blind, or Disabled. (6-1-94)
- 06. Medicaid. The Federally-aided program for medical care (Title XIX, Social Security Act). (6-1-94)

**412. UNVERIFIED IEVS DATA.**

The IEVS data listed below is considered unverified: (6-1-94)

- 01. IRS Reported Unearned Income. Unearned income data from IRS, including any unreported assets producing income. (6-1-94)
- ~~(6-1-94)~~(7-1-97)T  
02. Wages. Wage file data. Wage data from DOEL or its counterpart in another state. Wage data from BEER.
- 03. Self-Employment Earnings. Self-employment earnings data from BEER. (6-1-94)
- 04. Questionable Information. Income information the Department feels is doubtful. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**512. SPECIAL CASES FOR COUNTING INCOME.**

Special cases for counting income are listed below: (6-1-94)

- 01. Wages Held at the Request of Employee. Wages held at the request of the employee are income in the month the wages would have been paid by the employer. (6-1-94)
- 02. Garnishments Held by Employer. Garnishments withheld by an employer are income in the month the wages would have been paid. (6-1-94)
- 03. Wages Held by Employer, Other than Garnishment and Employee Request. Wages held by the employer, even if in violation of law, are not counted as income. (6-1-94)
- 04. Advances on Wages. Advances on wages will count as income if the household reasonably expects the advance to be paid. (6-1-94)
- 05. Varying Payment Cycles. Households getting unearned or earned income on a recurring monthly or semi-monthly basis do not have varying income merely because mailing or payment cycles cause ~~two (2)~~ additional payments to be received in ~~one (1) a month and none in the next month.~~ The income is counted for the month it is intended. ~~(6-1-94)~~(5-1-97)T
- 06. Nonrecurring Lump Sum Payments and Capital Gains. Nonrecurring lump sum payments must not be counted as income. Nonrecurring lump sum payments are counted as a resource starting in the month received. Nonrecurring lump sum payments include capital gains from the sale or transfer of securities, real estate, or other real property held as an investment for a set period of time. The capital gains are income only if the assets were used in self-employment. (6-1-94)
- 07. ~~SSI, AFDC,~~ or PA Entitlement. If a household intentionally fails to comply with a means tested program, a penalty may be imposed and benefits reduced to collect the means tested program overpayment. Means tested programs include, ~~but are not limited to,~~ SSI, ~~AFDC,~~ or PA. Count the full amount of means tested benefits the household is entitled to, not the reduced amount caused by the failure to comply. ~~(6-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**532. GROSS INCOME LIMIT.**

Households exceeding the gross income limit for the household size are not eligible, unless they are categorically eligible or have an elderly or disabled member. Categorically eligible households are exempt from gross and net income limits. All members of categorically eligible households must be approved for AFDC-TAFI, AABD, or SSI. Households with elderly or disabled household members are exempt from the gross income limit. Gross income limits are listed in Table 532. ~~(10-1-96)T~~ (7-1-97)T

TABLE 532 - GROSS INCOME LIMIT	
HOUSEHOLD SIZE	GROSS INCOME LIMIT
1	\$839
2	\$1,123
3	\$1,407
4	\$1,690
5	\$1,974
6	\$2,258
7	\$2,542
8	\$2,826
Each Added Person	Add \$284

(10-1-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**576. CERTIFICATION PERIODS.**

A certification period must be assigned for each household. Households must be assigned the longest certification period possible based on expected household circumstances. At the end of each certification period, entitlement to Food Stamps ends. Further eligibility starts only upon recertification based upon a newly completed application, an interview and verification. Benefits cannot be continued beyond the end of a certification period without a new determination of eligibility. (6-1-94)

01. First Month of Certification. The first month the household is eligible is the first month in the certification period for initial applicants. Upon recertification, a new certification period begins. (6-1-94)

02. Elderly or Disabled Households. Households consisting entirely of elderly or disabled members, whose income is stable, must be certified for up to twelve (12) months. (6-1-94)

03. Farmworker Households. Annual certification periods will be assigned to farmworkers who receive their annual salaries on a scheduled monthly basis. The income must not change as the amount of work changes. (6-1-94)

04. Self-Employed For At Least One Year. Self-employed households, working as self-employed for at least one year, will be certified up to twelve (12) months. Income must be readily predictable and household circumstances must not be likely to change. (6-1-94)



05. Self-Employed For Less Than One Year. Households, self-employed less than one year, will be certified up to six (6) months. Households self-employed for less than one (1) year are assigned a certification period to bring the household into the annual cycle. (6-1-94)

06. Financial and Medical Assistance Households. Households in which all members receive AFDC, AABD, AABD-related Medicaid, or SSI or Medicaid will be assigned certification periods coinciding with the other program review. ~~Clients who have their eligibility redetermined every twelve (12) months must be certified up to twelve (12) months. Recipients who have their eligibility redetermined every six (6) months must be certified up to six (6) months.~~ To align the Food Stamp certification with the redetermination date for the AABD, AABD-related Medicaid or SSI program, the household's Food Stamp certification can be shortened or extended when the AABD, AABD-related Medicaid, or SSI application is initially approved. The Food Stamp certification period for these households may be extended up to twelve (12) months. The household must be notified of changes in the length of the certification period. (9-1-94)(7-1-97)T

07. Households Eligible for a Child Support Deduction. Households eligible for a child support deduction with no record of regular child support or arrearage payments will be certified up to three (3) months. Households eligible for a child support deduction with a record of regular child support or arrearage payments will be certified for up to six (6) months. These requirements do not apply to households assigned certification periods under Subsections 576.02, 576.04, 576.05 and 576.06. (5-1-97)T

08. Households Granted Separate Household Status. Households consisting of a parent and that parent's children who have been granted separate household status will be assigned a certification period up to six (6) months. Financial and medical assistance households granted separate household status must be assigned certification periods up to six (6) months. (9-1-94)

09. Stable Households. Households with stable income or work records, except self-employed and farmworker households, are certified for up to six (6) months. The household should expect no major changes in income, deductions, or household composition. (6-1-94)

10. Stable Homeless Households. Households in which all members are homeless, whose living arrangements reflect a stable living situation must be certified for up to six (6) months. Stable living situations include living with another household. Living in transitional housing is not a stable living situation. (6-1-94)

11. Unstable Households. Households will be certified for one (1) or two (2) months, when the household cannot predict its future circumstances, or when frequent changes in income or household status is expected. Households must be certified for the period the household can predict its circumstances, household status, and household income. Migrant and seasonal farmworkers, whose income is subject to large fluctuations during the work season will be certified for one (1) to two (2) months. The income fluctuation may be due to uncertainty of continuous employment, or due to bad weather, or other circumstances. (6-1-94)

12. Residents of Alcohol and Drug Abuse Centers. Residents of alcohol and drug abuse centers may be certified for periods of one (1) to six (6) months depending on the length of the treatment or rehabilitation program. (6-1-94)

13. Certifications After the Fifteenth (15th) of the Month. Households eligible for a certification period of three (3) or fewer months must have their certification period increased by one (1) month if the application is approved after the fifteenth (15th) day of the application month and the household's circumstances warrant the longer period. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**612. HOUSEHOLD MUST REPORT CHANGES.**

Households must report any changes listed below:

(6-1-94)

01. Household Composition. Households must report when a person enters or leaves the Food Stamp household. (7-1-97)
02. Residence. Households must report residence changes and resulting shelter cost changes. (6-1-94)
03. Unearned Income. Households must report changes in an unearned income source. Households must report changes in unearned gross monthly income of twenty-five dollars (\$25) or more, except changes in ~~AFDCTAFI~~ or AABD grants. This includes vendor payments and reimbursements. ~~(7-1-97)~~(7-1-97)T
04. Earned Income. Households must report a change in an earned income source. Households must report a change in hourly rate or salary. Households must report a change from part-time to full-time work or full-time to part-time work. Work of less than thirty (30) hours weekly is part-time work. Thirty (30) or more hours weekly is full-time work. (7-1-94)
05. Vehicles. Households must report any change in the number or type of licensed vehicles. (6-1-94)
06. Resources. Households must report changes in cash on hand, stocks, bonds, savings, and bank accounts combining to reach or exceed two thousand dollars (\$2,000). (6-1-94)
07. Child Support. Households must report changes in legal obligations. Legal obligations include but are not limited to changes in the child support amount or the child reaches an age at which child support is no longer legally obligated. (5-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**621. ~~AFDCTAFI~~ OR AABD HOUSEHOLD REPORTING CHANGES.**

If a change requires a reduction or ending ~~AFDCTAFI~~ or AABD and Food Stamp benefits, and the Department can determine Food Stamp benefits, the Department will issue a Notice of Decision for both AABD and Food Stamps or ~~AFDCTAFI~~ and Food Stamps. If the household timely requests a fair hearing and continued benefits Food Stamps continue pending the hearing. The household must reapply if certification expires before the hearing is complete. If Food Stamps increase due to lowering or ending ~~AFDCTAFI~~ or AABD, issue the ~~AFDCTAFI~~ or AABD notice of adverse action, but do not increase Food Stamps until the household decides if it will appeal the action. If the household appeals and ~~AFDCTAFI~~ or AABD is continued, continue Food Stamp benefits at the old level. If the household does not appeal, change Food Stamps after notice. The time limit to act on changes increasing Food Stamps must be calculated from the date the ~~AFDCTAFI~~ or AABD Notice of Decision expires. ~~(6-1-94)~~(7-1-97)T

**622. CHANGE ENDS ~~AFDCTAFI~~ OR AABD INCOME.**

A change ending a household's income from ~~AFDCTAFI~~ or AABD during the certification period may affect Food Stamp eligibility. If the household appeals and ~~AFDCTAFI~~ or AABD is continued, continue Food Stamps at the same level. If an ~~AFDCTAFI~~ or AABD notice is not required or the household does not appeal, send a notice explaining the household's benefits will end due to changes which may affect eligibility and/or benefit level. A notice must be sent to the household when Food Stamp benefits change because of an ~~AFDCTAFI~~ or AABD change. If ~~AFDCTAFI~~ or AABD ends and they remain Food Stamp eligible, advise the household of the work registration requirements. When the certification is shortened to reflect changes, the certification period must not end earlier than the month after the notice is issued, allowing adequate time to send a Notice of Expiration and for the household to timely reapply. ~~(6-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**633. NOTICE OF CHANGES NOT REQUIRED.**

Notice to individual Food Stamp households is not required when the conditions listed in Subsection 633.01 below

are met. Mass notice must be given in some situations, as listed in Subsection 633.02 below: (6-1-94)

01. Waiver by the Household. The head of household, spouse or authorized representative provides a written statement requesting closure. The person gives information causing reduction or an end to benefits and states, in writing, they know adverse action will be taken. The person acknowledges in writing continuation of benefits is waived, if a fair hearing is requested. (6-1-94)

02. Mass Change. Mass changes include: (6-1-94)

a. Changes in the income limit tables. (6-1-94)

b. Changes in the issuance tables. (6-1-94)

c. Changes in Social Security benefits. (6-1-94)

d. Changes in SSI payments. (6-1-94)

e. Changes in ~~AFDCTAFI~~ or AABD grants. (~~6-1-94~~)(7-1-97)T

f. Changes caused by a reduction, suspension, or cancellation of Food Stamps ordered by the Secretary of USDA. (6-1-94)

g. When it performs mass changes, the Department notifies Food Stamp households of the mass change by one of the following methods: (6-1-94)

i. Media notices. (6-1-94)

ii. Posters in the Food Stamp offices and issuance locations. (6-1-94)

iii. A general notice mailed to households. (6-1-94)

03. Mass Changes in ~~AFDCTAFI~~ or AABD. When a mass change to ~~AFDCTAFI~~ or AABD causes a Food Stamp change, use the following criteria: (~~6-1-94~~)(7-1-97)T

a. If the Department has thirty (30) days advance notice of the ~~AFDCTAFI~~ or AABD mass change, Food Stamps must be adjusted the same month as the change. (~~6-1-94~~)(7-1-97)T

b. If the Department does not have advance notice, Food Stamp benefits must be changed no later than the month after the ~~AFDCTAFI~~ or AABD mass change. (~~6-1-94~~)(7-1-97)T

c. Ten (10) day advance notice to Food Stamp households is not required. Adequate notice must be sent to Food Stamp households. (6-1-94)

d. If a household requests a fair hearing because of an issue other than mass change, continue Food Stamps. (6-1-94)

04. Notice of Death. Notice is not required when the Department learns of the death of all household members. (6-1-94)

05. Move from Project Area. Notice is not required when the household moves from the project area. (6-1-94)

06. Completion of Restored Benefits. Notice is not required when an increased allotment, due to restored benefits, ends. The household must have been notified in writing when the increase would end. (6-1-94)

07. Joint Public Assistance and Food Stamp Applications. Notice is not required if the household jointly applies for ~~AFDCTAFI~~ or AABD and Food Stamps and gets Food Stamps pending ~~AFDCTAFI~~ or AABD

approval. The household must be notified at certification that Food Stamps will be reduced upon AFDC/TAFI or AABD approval. ~~(6-1-94)~~(7-1-97)T

08. Converting from Repayment to Benefit Reduction. Notice is not required if a household with an IHE or IPV claim fails to repay under the repayment schedule. An allotment reduction is enforced. (6-1-94)

09. Households Getting Expedited Service. Notice is not required if all the following conditions are met: (6-1-94)

- a. The applicant got expedited services. (6-1-94)
- b. Proof was postponed. (6-1-94)
- c. A regular certification period was assigned. (6-1-94)
- d. Written notice, stating future Food Stamps depend on postponed proof, was given at approval. (6-1-94)

10. Residents of a Drug or Alcoholic Treatment Center or a Group Living Arrangement Center. Notice is not required when the Department ends Food Stamps to residents of a drug or alcoholic treatment center or group living arrangement center if: (6-1-94)

- a. The Department revokes the center's certification. (6-1-94)
- b. FNCS disqualifies the center as a retailer. ~~(6-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**684. -- 685.** (RESERVED).

**686. ADMINISTRATIVE ERROR CLAIMS.**

~~An administrative error is an overissuance due to an action or failure to act by the Department. Causes of administrative error claims are listed below:~~ (6-1-94)

- ~~01. Wrong Food Stamp Issuance. The Department issues the wrong Food Stamp amount. (6-1-94)~~
- ~~02. Failure to Act On Change. The Department fails to act on a reported change. (6-1-94)~~
- ~~03. Incorrect Income Computation. The Department incorrectly computes income. (6-1-94)~~
- ~~04. Incorrect Deduction Computation. The Department incorrectly computes deductions. (6-1-94)~~
- ~~05. Incorrect Duplicate ATP Issuance. The Department issues a duplicate ATP incorrectly and the ATP is negotiated. (6-1-94)~~
- ~~06. Incorrect Duplicate Food Stamp Issuance. The Department issues duplicate Food Stamps incorrectly. (6-1-94)~~
- ~~07. Food Stamps Issued After Certification Ends. The Department continues to issue Food Stamps after certification ends and there is no reapplication. (6-1-94)~~
- ~~08. AFDC or AABD Benefit Change. The Department does not reduce Food Stamps when AFDC or AABD benefits change. (6-1-94)~~

~~09. Misuse by Representative. A drug or alcohol rehabilitation center representative's misuse. The Department will bill the overissuance to the center and collect from the center. (6-1-94)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**687. ~~COMPUTING~~ ADMINISTRATIVE ERROR CLAIMS.**

An administrative error is an overissuance due to an action or failure to act by the Department. The Administrative Error claim is the difference between the Food Stamps the household received and the Food Stamps they should have received. Compute the claim back to the month the administrative error occurred. Do not go back more than twelve (12) months before the date the overissuance was discovered. When the Department did not act on timely change report, the first claim month is the first month the change would have affected Food Stamp amount. The first change month must not be later than two (2) months after the month the change occurred. The Department must offset the claim against any amounts not yet restored. ~~(6-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**690. ADMINISTRATIVE ERROR COLLECTION ACTION NOT TAKEN.**

When the claim is collected by offset no further collection action is necessary unless there is a balance owed. Except for reconciliation claims, collection action is not started if the claim is less than one hundred dollars (\$100). Collection action is not started if the Department finds the household cannot be located. Collection action is not started if the Department or FNCS are taking steps to disqualify a drug or alcohol rehabilitation center and collection action may prejudice the case. ~~(6-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**715. WAIVED HEARINGS.**

Persons accused of an IPV may waive their right to an administrative disqualification hearing by completing and signing a Waiver of Disqualification Hearing ~~(HW-0547)~~. The steps needed to waive the hearing are listed below: ~~(6-1-94)~~(7-1-97)T

01. Review of Evidence. The Department must be sure the evidence warrants scheduling a disqualification hearing before giving household members, suspected of an IPV, the waiver option. Household circumstances must be reviewed by the Examiner assigned the case and a program supervisor or designee. (6-1-94)

02. Advance Notice. If the reviewers determine a waiver is proper, ~~the~~each household member suspected of IPV must be mailed or given a Waiver of Disqualification Hearing ~~(HW-0547)~~. The following information must be entered on the waiver form: ~~(6-1-94)~~(7-1-97)T

- a. The accused member's name and address. (6-1-94)
- b. The case name and number. (6-1-94)
- c. Select the penalty violation box. (6-1-94)
- d. The date the waiver must be received to avoid a hearing. The household member has thirty (30) days to return the form. (6-1-94)
- e. The hearing schedule information. (6-1-94)

- f. The telephone number, person and Field Office to contact for information. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**720. CLAIMS DISCHARGED BY BANKRUPTCY.**

The Department will act for FNCS in bankruptcy proceedings against households owing claims. The Department may file proofs of claims, objections to discharge, exceptions, petitions and any other documents, motions, or objectives FNCS might have filed. Upon receiving notice a household has filed for bankruptcy, the Department must perform steps listed below: ~~(6-1-94)~~(7-1-97)T

01. Suspend Collection Activity. The Department must suspend all collection action, including recoupment. (6-1-94)
02. Consult Court. The Department must consult with the court if there is doubt about the status of the filing or to clarify the status. The Department must advise the court of the claim and if the claim is for an IPV. IPV claims may not be dischargeable in a bankruptcy proceeding. (6-1-94)
03. Collect Claim. The Department must resume or start collection action after the final court action. (6-1-94)
04. Forward Collections. The Field Office must forward amounts collected to the Bureau of Financial Services. The Field Office must send a photocopy to the Bureau of Welfare Programs. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**728. FOOD STAMP REDUCTION, SUSPENSION, OR CANCELLATION.**

Food Stamps for all Food Stamp households must be reduced, suspended, or cancelled, if ordered by the USDA Secretary to comply with Section 18 of the Food Stamp Act of 1977. Reduced Food Stamps are computed using the thrifty food plan amounts and are reduced by a percentage defined by FNCS. Food Stamp reduction, suspension, and cancellation rules are described below: ~~(6-1-94)~~(7-1-97)T

01. Reducing Food Stamps. FNCS will notify the Department of the effective date of reduction and of the thrifty food plan reduction percentage. The Department must: ~~(6-1-94)~~(7-1-97)T
- a. Act immediately to carry out the reduction. (6-1-94)
- b. Guarantee one (1) and two (2) person households a minimum benefit of ten dollars (\$10) unless the reduction is ninety percent (90%) or more of total projected monthly benefits. (6-1-94)
- c. Notify Field Offices of the effective date and reduction percentage. (6-1-94)
02. Notice to Households. Reductions, suspensions, or cancellations are mass changes. Individual notice is not required. (6-1-94)
03. Restoring Lost Benefits. Households whose Food Stamps are reduced or cancelled under this section are not entitled to restoration of benefits. Reductions or cancellations of Food Stamps may be ordered restored by the USDA Secretary. (6-1-94)
04. Effects on Certification. Field Offices must continue to accept and process expedited service applications, regular applications, and recertifications to determine eligibility, and to assign certification periods during a reduction, suspension, or cancellation. (6-1-94)

05. Food Stamps for Eligible Households. If a reduction is in effect, compute Food Stamps by reducing the thrifty food plan amount for the eligible household's size by the percentage ordered by FNCS. Then deduct thirty percent (30%) of the household's net Food Stamp income from the thrifty food plan amount. ~~(6-1-94)~~(7-1-97)T

06. Suspension or Cancellation. If a suspension or cancellation is in effect, no Food Stamps are to be issued to the applicant. (6-1-94)

07. Expedited Services. If expedited services are allowed in reduction, suspension, or cancellation months: (6-1-94)

a. Process applications during reduction months and apply the reductions as instructed. (6-1-94)

b. Process applications during suspension months and suspend Food Stamps until the suspension ends. (6-1-94)

c. Process applications during cancellation months. The deadline for processing is two (2) days or the end of the application month, whichever is later. Suspend Food Stamps until the cancellation ends. (6-1-94)

08. Hearings. Any household whose allotment was reduced, suspended, or cancelled under this Section can request a fair hearing. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**754. DEEMING INCOME AND RESOURCES TO SPONSORED LEGAL NONCITIZEN.**

Income and resources of the sponsor are deemed available to the legal noncitizen. If the sponsor lives with his spouse, the spouse's income and resources are also deemed available to the legal noncitizen. The income and resources are deemed, even if the sponsor and spouse were married after the sponsor signed the sponsorship agreement. The income and resources deemed to the legal noncitizen must be counted toward Food Stamp eligibility and issuance level of the legal noncitizen's household. Subsection 754.01 describes the steps for deeming income from a sponsor who signed an affidavit of support between February 1, 1983 and March 31, 1997. Subsection 754.02 describes the steps for deeming resources from a sponsor who signed an affidavit of support between February 1, 1983 and March 31, 1997. Subsection 754.03 describes the steps for deeming income from a sponsor who signed an affidavit of support on or after April 1, 1997. Subsection 754.04 describes the steps for deeming resources from a sponsor who signed an affidavit of support on or after April 1, 1997. (4-1-97)T

01. Deeming Income From a Sponsor Who Signed an Affidavit of Support Between February 1, 1983 and March 31, 1997. (4-1-97)T

a. Step 1. Compute the total monthly income of the sponsor and spouse when the legal noncitizen applies or is recertified. If the legal noncitizen has already reported under ~~AFDC/TAFI~~ sponsored legal noncitizen rules use the AFDC reported gross income information. ~~(4-1-97)T~~(7-1-97)T

b. Step 2. Subtract the earned income deduction from the earned income of the sponsor and spouse. (6-1-94)

c. Step 3. Compute the sponsor's household size. Count the sponsor, the spouse and persons claimed by them as dependents for Federal income tax. (6-1-94)

d. Step 4. Find the Food Stamp gross monthly income limit for the sponsor's household size. (6-1-94)

e. Step 5. Subtract the Food Stamp gross monthly income limit for the sponsor's household from the remainder in Step 2. (6-1-94)

f. Step 6. The income remaining after Step 5 is deemed to the legal noncitizen household. (4-1-97)T

g. Step 7. The sponsor may actually pay the legal noncitizen more income than deemed in Step 6. Any income the sponsor pays the legal noncitizen, exceeding the income deemed in Step 6, is also counted for Food Stamps. (4-1-97)T

h. Step 8. If the legal noncitizen can verify his sponsor sponsors other legal noncitizens, divide the deemed income by the number of legal noncitizens applying for or getting Food Stamps. Deem all income and resources to the legal noncitizen until verification is provided. (4-1-97)T

02. Deeming Resources From a Sponsor Who Signed an Affidavit of Support Between February 1, 1983 and March 31, 1997. (4-1-97)T

a. Step 1. Compute the resources of the sponsor and his spouse. Use the ~~AFDCTAFI~~ reported resource information if the legal noncitizen has already reported under ~~AFDCTAFI~~ sponsored legal noncitizen rules. (4-1-97)T(7-1-97)T

b. Step 2. Subtract two thousand dollars (\$2,000) from the total resources of the sponsor and spouse computed in Step 1. (6-1-94)

c. Step 3. The resources remaining after Step 2 are deemed to the legal noncitizen household. (4-1-97)T

d. Step 4. If the legal noncitizen can verify his sponsor sponsors other legal noncitizens, divide the deemed resources by the number of legal noncitizens applying for or getting Food Stamps. Deem all income and resources to the legal noncitizen until verification is provided. (4-1-97)T

03. Deeming Income from a Sponsor Who Signed an Affidavit of Support On or After April 1, 1997. (4-1-97)T

a. Step 1. Compute the total month income of the sponsor and the spouse when the legal noncitizen applies or is recertified. (4-1-97)T

b. Step 2. Subtract the earned income deduction from the earned income of the sponsor and spouse. (4-1-97)T

c. Step 3. The income remaining after Step 2 is deemed to the legal noncitizen household. (4-1-97)T

d. Step 4. The sponsor may actually pay the legal noncitizen more income than deemed in Step 3. Any income the sponsor pays the legal noncitizen exceeding the income deemed in Step 3 is also counted for Food Stamps. (4-1-97)T

e. Step 5. If the legal noncitizen can verify his sponsor sponsors other legal noncitizens, divide the deemed income by the number of legal noncitizens applying for or getting Food Stamps. Deem all income and resources to the legal noncitizen until verification is provided. (4-1-97)T

04. Deeming Resources from a Sponsor Who Signed an Affidavit of Support On or After April 1, 1997. (4-1-97)T

a. Step 1. Compute the resources of the sponsor and his spouse. (4-1-97)T

b. Step 2. The resources computed in Step 1 are deemed to the legal noncitizen household. (4-1-97)T

c. Step 3. If the legal noncitizen can verify his sponsor sponsors other legal noncitizens, divide the deemed resources by the number of legal noncitizens applying for or getting Food Stamps. Deem all income and resources to the legal noncitizen until verification is provided. (4-1-97)T



**(BREAK IN CONTINUITY OF SECTIONS)**

**774. EXCLUDED HOUSEHOLD MEMBERS.**

Persons may be excluded from Food Stamps for an IPV, for failure to comply with JSAP requirements if the person is not the head of household, a voluntary quit or reduction of work hours if the person is not the head of household, or for failure or refusal to provide a SSN. Persons may be excluded from Food Stamps for failure to sign a citizenship or legal noncitizen status declaration or because the member is an ineligible legal noncitizen or an ineligible sponsored legal noncitizen. A person who has received Food Stamps for three (3) months in a three (3) year period in which he did not meet the ABAWD work requirement is excluded from Food Stamps. Fugitive felons and, probation or parole violators are excluded from Food Stamps. A person convicted, after August 22, 1996, of a felony which has as an element the possession, use or distribution of a controlled substance is excluded from Food Stamps.

~~(9-22-96)T~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**777. MEMBER DISQUALIFIED FOR FAILURE OR REFUSAL TO PROVIDE A SSN. ~~CAUSES OTHER THAN IPV OR JSAP.~~**

Food Stamp eligibility and benefit level for households containing members disqualified for failure or refusal to provide a SSN, ~~or for failure to sign a citizenship or legal noncitizen status declaration or because the member is an ineligible legal noncitizen or an ineligible sponsored legal noncitizen~~ must be computed using steps in Subsections 777.01 through 777.09. ~~(4-1-97)T~~(7-1-97)T

01. Step 1. Count the resources of the disqualified members as resources to the Food Stamp household. (6-1-94)
02. Step 2. Count part of the income of the disqualified members as income to the household. (6-1-94)
  - a. Subtract Food Stamp exclusions from the disqualified member's income. (6-1-94)
  - b. Divide the income evenly among all members, including the disqualified member. (6-1-94)
  - c. Count all but the disqualified member's share as income to the Food Stamp household. (6-1-94)
03. Step 3. Apply the earned income deduction to the prorated income of the excluded member. (6-1-94)
04. Step 4. Divide the allowable shelter, dependent care and child support expenses, paid by or billed to the disqualified member, among the household members. All but the disqualified member's share is a deductible expense. (7-1-97)
05. Step 5. Do not count the disqualified member as part of the household to compute the resource limit. (6-1-94)
06. Step 6. Do not count the disqualified member when computing household size for the gross and net income limit tests. (6-1-94)
07. Step 7. Do not count the disqualified member to compute medical deduction. (4-1-97)T
08. Step 8. Do not count the disqualified member to compute uncapped shelter deduction. (4-1-97)T
09. Step 9. Do not count the disqualified member to compute household size for Food Stamp issuance. (6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**793. NARCOTIC ADDICT AND ALCOHOLIC TREATMENT CENTERS.**

Narcotic addicts and their children residing in a treatment center may qualify for Food Stamps. Alcoholics and their children residing in a treatment center may qualify for Food Stamps. Food Stamp rules for residents in a drug addiction or alcohol treatment and rehabilitation program lasting at least thirty (30) days are listed below: (9-1-94)

01. Center Provides Certification List. Each month, each center must give the Field Office a list of current client residents. The list's accuracy must be certified in writing by the center manager or designee. The Department must conduct random on-site visits to assure list accuracy. (6-1-94)

02. Resident and Nonresident Clients. Eligible narcotic addicts or alcoholics must be certified as one (1) person households. Eligible narcotic addicts with children or alcoholics with children residing in a center must be certified as one (1) household. Clients not residing at the treatment center are certified under normal procedures. (9-1-94)

03. Food Stamp Basis. Eligibility and Food Stamp amounts must be based on income and resources. (6-1-94)

04. Work Registration. Resident clients are exempt from work registration. (6-1-94)

05. Expedited Processing. When the application needs expedited processing, Food Stamps must be received by the fifth calendar day after the application date. (6-1-94)

06. Normal Processing. If processing under normal procedures, the Department must verify circumstances before determining eligibility. Changes and recertifications are processed using the standards for all other households. Resident clients have the same rights to adverse action notices, fair hearings and lost Food Stamps as all other households. (6-1-94)

07. Center Misusing Food Stamps. The Department must promptly notify FNCS if it believes a center is misusing coupons. The Department must not take action before FNCS takes action against the center. ~~(6-1-94)~~(7-1-97)T

**794. TREATMENT CENTER RESPONSIBILITIES.**

Treatment Center responsibilities are listed below: (6-1-94)

01. Appoint Authorized Representative. The publicly operated community mental health or private nonprofit organization running the center must designate an authorized representative. (6-1-94)

a. The authorized representative must be an employee, over age eighteen (18). (6-1-94)

b. The authorized representative applies for, obtains and uses the Food Stamps on behalf of a resident. (6-1-94)

c. The Food Stamps can be used to purchase meals served at the center. (6-1-94)

d. The authorized representative must be knowledgeable about the financial circumstances of the client. (6-1-94)

e. The authorized representative's designation must not interfere with the treatment and rehabilitation program of the client. (6-1-94)

02. Notify Department of Changes. The center must notify the Department of changes in household circumstances affecting eligibility or Food Stamp amount, including when a resident leaves the center. (6-1-94)

03. Return Food Stamps. (6-1-94)

- a. The center must return all issue documents and Food Stamps, not given to a departing resident, to the Department. (6-1-94)
- b. Food Stamps must be returned to the Department if the client left before the sixteenth of the month and the center was unable to give him the Food Stamps. (6-1-94)
- c. Food Stamps must be returned to the Department if they were left over for a resident who left on or after the sixteenth of the month. (6-1-94)
04. **Fraud or Misrepresentation.** The center is responsible for misrepresentation or fraud in certification of resident clients. The center is liable for residents' overissuances, losses, or misuse of Food Stamps. (6-1-94)
05. **Give Food Stamps to Departing Client.** (6-1-94)
- a. The center must give the departing client the ID card and any unredeemed Food Stamps. (6-1-94)
- b. The center must give the client a full month's Food Stamps if they have been issued, but none have been spent on behalf of the client. (6-1-94)
- c. The center must give the departing client one-half (1/2) of the monthly Food Stamps if the client leaves before the sixteenth of the month and a portion of the Food Stamps have been spent on behalf of the client. (6-1-94)
- d. If the client leaves the center on or after the sixteenth, and Food Stamps were issued and used, the center is not required to give Food Stamps to the client. (6-1-94)
06. **End Representation.** The center must not be an authorized representative for clients who leave the center. (6-1-94)
07. **Food Stamp Misuse.** The center must be disqualified if it is administratively or judicially found the center misappropriated or used coupons for purchases not contributing to a certified client's meals. (6-1-94)
08. **FNCS Disqualifies Center.** If FNCS disqualifies a center as a retailer, the Department must close residents' cases. Individual notice of adverse action is not required. ~~(6-1-94)~~(7-1-97)T

**795. RESIDENTS OF GROUP LIVING ARRANGEMENTS.**

Disabled or blind residents of public or private non-profit group living arrangements, serving no more than sixteen (16) residents may get Food Stamps. Residents get Food Stamps under the same standards as other households. Group living arrangements rules are listed below: (6-1-94)

01. **FNCS Authorized Retailer or Department Certified.** The center must be an FNCS authorized retailer or be certified by the Department as a non-profit group living center. Center status must comply with Section 1616(e) of the Social Security Act or comparable standards of the Secretary of USDA. ~~(6-1-94)~~(7-1-97)T
02. **List of Residents.** Each center must give the Field Office a list of current Food Stamp residents. The list must include a statement, signed by a center official, attesting the validity of the list. The Department must require the list on a periodic basis. The Department must conduct random on-site visits to assure the accuracy of the list. (6-1-94)
03. **Application Option.** Residents may apply on their own. Residents may apply as a group. Residents may apply through an authorized representative employed and designated by the center. Residents may apply through an authorized representative of the resident's choice. (6-1-94)
04. **Residents Apply On Their Own Behalf.** A person or a group of residents making up a household can apply on their own behalf. The center must determine the resident is physically and mentally capable of handling his own affairs. If the resident is eligible the center does not act as the authorized representative. The resident or group

is responsible for reporting any changes affecting eligibility or benefit level. The resident is responsible for overissuances.  
(6-1-94)

05. Certification. Residents of a center applying through the center's authorized representative must be certified as a one (1) person household. Residents of a center applying on their own behalf must be certified according to household size. (6-1-94)

06. Benefit Level. Eligibility and benefit levels are based on the income and resources of the household.  
(6-1-94)

07. Exempt From Work Registration. Residents are exempt from work registration. (6-1-94)

08. Notices. Residents are entitled to notices of adverse action. If a group living arrangement center loses its authorization or certification notice is not required. (6-1-94)

09. Using Food Stamps. The Food Stamps may be used by the resident, a group of residents, or by the center to purchase food for the resident. The center may accept coupons as payment for meals. If residents purchase or prepare food for home consumption, the center must insure each resident's coupons are used for meals intended for that resident. (6-1-94)

10. Penalties and Disqualifications. The center can be penalized or disqualified if Food Stamps are misappropriated or used for purchases not contributing to the household. The misuse may be determined administratively or judicially. The Department must promptly notify FNC~~S~~ if it believes a center is misusing Food Stamps. The Department must not take action before FNC~~S~~ makes a determination. If FNC~~S~~ disqualifies a center as a retailer, the Department must suspend the center's authorized representative status for the same period. If the center loses FNC~~S~~ authorization to accept and redeem Food Stamps or is no longer authorized by the Department, its residents are no longer eligible for Food Stamps. The residents are not entitled to notice of adverse action.

~~(6-1-94)~~(7-1-97)T

**796. SHELTERS FOR BATTERED WOMEN AND CHILDREN.**

The Department must determine if the shelter for battered women and children is a public or private non-profit residential facility. The Department must determine if the shelter serves only battered women and their children. If the facility serves other persons, the Department must determine if a portion of the facility is set aside to serve only battered women and children. Shelters having FNC~~S~~ authorization to redeem Food Stamps on a wholesale basis meet the shelter definition. Battered women and children shelter rules are listed below: ~~(6-1-94)~~(7-1-97)T

01. Food Stamp Eligibility. Women and children who recently left a household containing a person who abused them may get Food Stamps, even if the household they left was getting Food Stamps. Shelter residents may apply for and get separate Food Stamps only once in a month. The original Food Stamp certification must have included the person who subjected them to abuse. The resident household must meet eligibility criteria for income, resources, and expenses. (6-1-94)

02. Income, Resources, and Expenses. Income, resources, and expenses of the household are counted. Income, resources, and expenses of their former household, containing the person who subjected them to abuse, are not counted. Jointly held resources are inaccessible if the resources are jointly owned by the shelter resident and members of the abusive household. Jointly held resources are inaccessible if the shelter residents' access to the resource is dependent on the agreement of the joint owner still living in the former household. Room payments to the shelter are shelter expenses. (6-1-94)

03. Expedited Services. If shelter residents are eligible for expedited services, Food Stamps must be received within five (5) days. (6-1-94)

04. Food Stamps for Former Household. The Department must take prompt action to correct the former household's eligibility and allotment. The Department must issue a ten (10) day advance notice of adverse action. (6-1-94)

05. Using Food Stamps to Get Prepared Meals. Residents of shelters for battered women and children

may use Food Stamps to purchase meals prepared for them at the shelter.

(6-1-94)

**(BREAK IN CONTINUITY OF SECTIONS)**

**810. HOMELESS FOOD STAMP HOUSEHOLDS.**

Homeless Food Stamp households may use Food Stamps to buy meals prepared and served by homeless meal providers. The providers must be FNCS authorized to accept Food Stamps.

~~(6-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**816. PURCHASE OF PREPARED MEALS.**

Persons listed below may purchase prepared meals with their Food Stamps.

(6-1-94)

01. Older Persons Eating at Communal Dining Facility. Persons sixty (60) or older and their spouses, or persons who receive SSI and their spouses, can use Food Stamps to buy meals made for them at FNCS authorized communal dining facilities.

~~(6-1-94)~~(7-1-97)T

02. Persons Unable to Prepare Meals Getting Meal Delivery Service. A person sixty (60) years of age or over, and a spouse, can elect to use Food Stamps to purchase meals from a nonprofit meal delivery service. A housebound, physically handicapped or otherwise disabled person, unable to adequately prepare all meals, and a spouse, can elect to use Food Stamps to purchase meals from a nonprofit meal delivery service. The meal service must be FNCS authorized to accept Food Stamps.

~~(6-1-94)~~(7-1-97)T

03. Resident Addicts or Alcoholics. A narcotics addict or alcoholic residing in a drug addiction or alcoholic center can use Food Stamps at the center. The person must be enrolled in a treatment and rehabilitation program operated by a nonprofit organization or institution. The center must be authorized by FNCS to accept Food Stamps.

~~(6-1-94)~~(7-1-97)T

04. Battered Women and Children. A resident of a shelter for battered women and children can use Food Stamps to purchase meals prepared by the shelter. The shelter must be FNCS authorized to accept Food Stamps.

~~(6-1-94)~~(7-1-97)T

05. Homeless. A homeless Food Stamp client can use Food Stamps to buy meals prepared by a homeless meal provider. The meal provider must be FNCS authorized to accept Food Stamps.

~~(6-1-94)~~(7-1-97)T

**817. RETAIL STORE OWNERS AND MANAGERS.**

Owners and managers of stores, authorized by FNCS to accept Food Stamps of cooperative buying clubs, may get Food Stamps if they are members of eligible households. Cooperative buying clubs are organizations of persons pooling their buying power to get food at lower prices.

~~(6-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**864. DISCRIMINATION COMPLAINT PROCEDURE.**

Any person can file a discrimination complaint. The person may use the Department's complaint procedure. The person may file a complaint directly to FNCS, to the Department or both. The Field Office must explain both procedures orally or in writing. The Field Office must explain the one hundred eighty (180) day filing time limit, extensions and where to submit complaints. The Department must submit a written report describing the discrimination complaint and the action taken. This report is submitted to the Department's Civil Rights Coordinator. The Department must keep all complaints and complaint records for three (3) years.

~~(6-1-94)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**867. FOOD STAMP INFORMATION REQUIREMENTS.**

Federal regulations and procedures in FNCS notices and policy memos must be available for examination by the public. State plans of operation must be available for examination by the public. Examination may take place during office hours at Department headquarters. Handbooks must be available for examination upon request at each Field Office. The Department must provide information about Food Stamps through mass media, posters, fliers, pamphlets and face-to-face contacts. Minimum requirements are listed below: ~~(6-1-94)~~(7-1-97)T

01. Rights and Responsibilities. Households must be informed of Food Stamp program rights and responsibilities. (6-1-94)

02. Nutrition Information. Posters and pamphlets with information about foods with large amounts of protein, minerals and vitamins must be available to clients. Menus making use of these foods must be available to clients. Information about the relationship between health and diet must be available to clients. (6-1-94)

03. Expanded Food and Nutrition Education Program. Households should be encouraged to take part in the Expanded Food and Nutrition Education Program (EFNEP). When practical, EFNEP personnel must be allowed into Field Offices to distribute information and speak with Food Stamp recipients. (6-1-94)

04. Other Food Programs. Posters, pamphlets and fliers must be available to clients to explain the Special Supplemental Food Program for Women, Infants, and Children (WIC), and where available, the Commodity Supplemental Food Program. (6-1-94)

05. Bilingual Information. All program information must be available in Spanish. Spanish information must say the program is available without regard to race, color, sex, age, handicap, religious creed, national origin or political belief. (6-1-94)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.05 - RULES GOVERNING AID THE AGED, BLIND AND DISABLED**

**DOCKET NO. 16-0305-9702**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective August 22, 1996 and July 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-106(l) and 56-202(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 1997.

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

**DESCRIPTIVE SUMMARY:** This docket:

- Clarifies policy on benefits to legal noncitizens.
- Adds that an Aid to the Aged, Blind and Disabled (AABD) participant must have his income counted for Temporary Assistance to Families in Idaho (TAFI).
- Adds treatment of dedicated accounts of child Supplemental Security Income (SSI).
- Adds treatment of income from emergency and delayed SSI.
- Clarifies Social Security Number (SSN) requirements for aliens.
- Changes treatment of a community spouse's resources after eligibility for Federal Spousal Impoverishment Medicaid is established.
- Clarifies that Medicaid is not available for drug addicts and alcoholics.
- Adds conditions for exempting a trust for a disabled person.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Patti Campbell at (208) 334-5819.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before July 23, 1997.

DATED this 2nd day of July, 1997.

STACI WELSH  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 334-5548 fax

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**TEXT OF DOCKET NO. 16-0305-9702**

**003. DEFINITIONS.**

The following definitions apply to this chapter:

(1-1-93)

01. Adult Foster Care Home. An adult foster care home is a family home where an adult lives when he is not able to live in his own home. An adult foster care home ~~client~~ participant needs family care, help in daily living, protection, security, and encouragement toward independence. An adult foster care home must not serve more than two (2) adults. It must be certified under Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 19, "Rules For Adult Foster Care Homes in Idaho." An exception to the two (2) person limit is made for a 1501 home, as defined in the above-cited rules. An adult foster care home is not a room and board home, adult residential care facility serving more than two (2) adults, nursing home, or institutional facility. ~~(1-1-95)(7-1-97)T~~

02. Adult Residential Care Facility. An adult residential care facility is one (1) or more buildings making up a facility or residence. It may be operated on a profit or nonprofit basis, to provide twenty-four (24) hour nonmedical care. The facility must care for three (3) or more persons, eighteen (18) years of age or older, not related to the owner. The persons need personal care or assistance and supervision for daily living activities or for their protection. An adult residential care facility must be licensed by the Department's Facility Standards Program. (1-1-93)

~~03. AFDC Handbook. Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 01, "Rules Governing Eligibility for Aid to Families with Dependent Children (AFDC)". (7-1-94)~~

043. Applicant. A person who has applied for public assistance from the Department, and whose application has not been fully processed. (1-1-93)

054. Child. A child is under age eighteen (18), or under twenty-one (21) and attending school. If the child is at least age eighteen (18) he must regularly attend a school, college, university, or vocational or technical training designed to prepare him for gainful employment. A child is not married. A child is not the head of a household. (1-1-93)

065. Department. The Idaho Department of Health and Welfare. (1-1-93)

076. Essential Person. A person of the ~~client's~~ participant's choice whose presence in the household is essential to the participant's well-being. The essential person renders specific services, which must be provided for a ~~client~~ participant to live at home. ~~(1-1-93)(7-1-97)T~~

087. Grant. A money payment in the form of a state warrant paid to a ~~client~~ participant, a ~~client's~~ participant's guardian, or a protective payee. ~~(1-1-93)(7-1-97)T~~

098. Ineligible Child. A child under age twenty-one (21) who does not receive AABD, and lives with the AABD ~~client~~ participant. ~~(1-1-93)(7-2-97)T~~

~~1009.~~ Ineligible Parent. A natural or adoptive father or mother, or a stepparent, who does not receive AABD and lives in the same household as a child. (1-1-93)

140. Ineligible Spouse. A ~~client's~~ participant's husband or wife, living with the ~~client~~ participant, not receiving AABD is an ineligible spouse. The non-AABD husband or wife, of the parent of a child ~~client~~ participant, living with the child ~~client~~ and his parent, is an ineligible spouse. ~~(1-1-93)(7-1-97)T~~

121. Inmate. A person living in an institution and receiving treatment or services from the institution. The treatment or services must fit the ~~client's~~ participant's needs. A person is not an inmate if he is getting training in a public educational or vocational training institution. A person is not an inmate if he is temporarily in a public institution for an emergency. ~~(1-1-93)(7-1-97)T~~

132. Medicaid. The Federally-aided program for medical care (Title XIX, Social Security Act). (1-1-93)

143. Medical Assistance Handbook. Idaho Department of Health and Welfare Rules, IDAPA 16, Title



03, Chapter 09, "Rules Governing Medical Assistance". (7-1-94)

14. Medicaid for Families with Children Handbook. Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 01, "Medicaid for Families with Children." (7-1-97)

15. Participant. An individual applying for or receiving assistance. (7-1-97)T

156. Room and Board. A living arrangement in which the ~~client~~ participant purchases lodging (room) and meals (board). (7-1-94)(7-1-97)T

167. School. A grade school, junior high school, high school, junior college, college, university, or vocational or technical training, including the Job Corps Program, designed to fit the trainee for gainful employment. (1-1-93)

18. TAFI Handbook. Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 08, "Temporary Assistance for Families in Idaho." (7-1-97)T

179. Working Day. A calendar day when regular office hours are observed by the state of Idaho. (1-1-93)

**004. ABBREVIATIONS.**

01. AABD. Aid to the Aged, Blind ~~or~~ and Disabled. (~~1-1-93~~)(7-1-97)T

02. AB. Aid to the Blind. (1-1-93)

03. AFA. Application for Assistance (~~HW-0900~~). (~~7-1-93~~)(7-1-97)T

04. AFDC. Aid to Families with Dependent Children. (~~1-1-93~~)

054. AG. Office of the Attorney General, Health and Welfare Division. (1-1-93)

065. APTD. Aid to the Permanently and Totally Disabled. (1-1-93)

076. ASVI. Alien Status Verification Index. (1-1-93)

087. COLA. Cost of Living Adjustment. (1-1-93)

098. CSA. Community Spouse Allowance. (1-1-93)

109. CSNS. Community Spouse Need Standard. (1-1-93)

110. CSRA. Community Spouse Resource Allowance. (1-1-93)

12. DDU. ~~Disability Determinations Unit.~~ (~~1-1-93~~)

131. DHW. The Idaho Department of Health and Welfare. (1-1-93)

142. EE/SRS. Eligibility Examiner/Self-Reliance Specealist. (~~1-1-93~~)(7-1-97)T

153. EITC. Earned Income Tax Credit. (1-1-93)

164. FMA. Family Member Allowance. (1-1-93)

175. FSI. Federal Spousal Impoverishment. (1-1-93)

186. HCBS. Home and Community Based Services. (1-1-93)

197.	HUD. The U.S. Department of Housing and Urban Development.	(1-1-93)
<del>2018.</del>	IEVS. Income and Eligibility Verification System.	(1-1-93)
<del>21.</del>	<del>HD. Initial Input Document.</del>	<del>(1-1-93)</del>
19.	<u>INA. Immigration and Nationality Act.</u>	<u>(7-1-97)T</u>
<del>220.</del>	IRS. The U.S. Internal Revenue Service.	(1-1-93)
<del>231.</del>	MA. Medical Assistance.	(1-1-93)
<del>242.</del>	OAA. Old Age Assistance.	(1-1-93)
<del>253.</del>	PASS. Plan for Achieving Self-Support.	(1-1-93)
<del>264.</del>	RSDI. Retirement, Survivors, and Disability Insurance.	(1-1-93)
<del>275.</del>	SAVE. Systematic Alien Verification for Entitlements.	(1-1-93)
26.	<u>SRS. Self-Reliance Specialist.</u>	<u>(7-1-97)T</u>
<del>287.</del>	SSA. Social Security Administration.	(1-1-93)
<del>298.</del>	SSI. Supplemental Security Income.	(1-1-93)
<del>3029.</del>	SSN. Social Security Number.	(1-1-93)
30.	<u>TAFI. Temporary Assistance for Families in Idaho.</u>	<u>(7-1-97)T</u>
31.	UIB. Unemployment Insurance Benefits.	(1-1-93)
32.	VA. Veterans Administration.	(1-1-93)
33.	VRS. Vocational Rehabilitation Services, Department of Education.	(1-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**056. EFFECTIVE DATE.**

The effective date for aid, when all eligibility requirements are met, is the application date. The exception for an SSI client participant is in Subsection 056.01. A client participant who applies for AABD must meet all eligibility factors on the date of his application. Resources are counted on the first (1st) day of the application month. If he is not eligible on this date, the application must be denied. Medicaid eligibility begins as shown in Subsections 056.02 through 056.05. ~~(8-22-96)T~~(7-1-97)T

01. AABD Eligibility and client participant Required to Apply for SSI. The effective date of the AABD money payment is the first month the client participant gets an SSI payment when the client participant is required to apply for SSI as a condition of AABD. Medicaid coverage starts the first day of the application calendar month. If the client participant is not eligible for SSI but eligible for AABD, aid is effective the application date. ~~(8-22-96)T~~(7-1-97)T

02. Normal Medicaid Eligibility. Medicaid coverage begins on the first (1st) day of the application calendar month. ~~(8-22-96)T~~

03. Retroactive (Backdated) Medicaid Eligibility. Medicaid benefits are backdated to the first (1st) day of the calendar month, three (3) months before the month of application, if the client participant was Medicaid eligible during the three (3) month period. If the client participant is not eligible for Medicaid when he applies, retroactive eligibility must be determined. (8-22-96)T(7-1-97)T

04. Partial Retroactive Medicaid Eligibility. A client participant eligible for Medicaid one (1) or more months of the three (3) month retroactive period may request the Department to provide Medicaid benefits for the eligible months. Medicaid must be provided for each eligible month a client participant received a Medicaid-payable service. (8-22-96)T(7-1-97)T

05. Ineligible Alien Non-Citizen Medicaid. Ineligible alien legal or illegal non-citizen coverage is restricted to emergency services. Coverage begins when the emergency treatment is required. Coverage ends with the last day emergency treatment is needed. (8-22-96)T(8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**095. ~~CONCURRENT BENEFITS NOT ALLOWED~~ SELECTION OF BENEFITS.**

A client participant must not receive AABD and TAFI or Federally-funded Foster Care payments at the same time. If a child is eligible for AABD and another type of aid, the client participant must be told the benefits for each program. The client participant, or representative, must elect the type of benefit he wishes to receive. (1-1-93)T(7-1-97)T

01. Selection of Benefits. The caretaker relative, guardian, or person acting responsibly for a client, must choose the type of aid payment when the client can qualify for more than one (1) aid program. (1-1-93)

02. When the Department has custody of a child, the social services worker supervising the child's placement, must choose whether the child will receive AABD, SSI, AFDC TAFI, or Federally-funded Foster Care payments when the child is eligible for more than one (1) benefit. (1-1-93)T(7-1-97)T

03. Concurrent Benefit Payee. An AABD, SSI, or AFDC TAFI participant can be the payee of an AABD grant for a child. (1-1-93)T(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**102. CITIZENSHIP AND ~~ALIENAGE~~ LEGAL NON-CITIZEN REQUIREMENT.**

~~The client must be a citizen or national of the United States or an eligible alien. The client must provide proof of citizenship or alien status. The client or legal guardian must sign a declaration, under penalty of perjury, attesting to his citizenship or alien status. The participant must be a citizen or national of the U.S. or an eligible legal non-citizen.~~ (1-1-93)(8-22-96)T

~~01. Eligible Aliens Before August 22, 1996. An eligible alien is a legal alien, admitted to the United States for permanent residence. An eligible alien is a person lawfully living in the United States, under the color of the law.~~ (8-22-96)T

02. Eligible Alien August 22, 1996 and Later. An eligible alien is one (1) of the following: (8-22-96)T

a. An alien is an eligible alien for five (5) years from the date he obtained a status in subsections 102.02.a.i. through 102.02.a.iv. (8-22-96)T

i. Refugee admitted under Section 207 of the Immigration and Nationality Act. (8-22-96)T

ii. Asylee admitted under Section 208 of the Immigration and Nationality Act. (8-22-96)T

~~iii. Alien Paroled into the U.S. for at least one (1) year under Section 212(d)(5) of the Immigration and Nationality Act. (8-22-96)T~~

~~iv. Alien whose deportation is withheld under Section 243(h) of the Immigration and Nationality Act. (8-22-96)T~~

~~b. An alien is an eligible alien indefinitely if he is one (1) of the following: (8-22-96)T~~

~~i. A veteran honorably discharged for a reason other than alienage and the veteran's spouse and unmarried dependent child. (8-22-96)T~~

~~ii. An active duty member of the U.S. Armed Forces who is not on active duty for training only and the member's spouse and unmarried dependent child. (8-22-96)T~~

01. Eligible Legal Non-Citizen Admitted Before August 22, 1996. The participant must be a legal non-citizen admitted for permanent residence and getting AABD on August 22, 1996. His legal non-citizen status must be redetermined under Subsection 102.02 by a date to be set by Congress. (8-22-96)T

02. Citizen and Legal Non-Citizen Status August 22, 1996 and Later. A participant must be a citizen of the U.S. or an eligible legal non-citizen. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Eligible legal non-citizens are listed in Subsection 102.03. The participant must provide proof of citizenship or proof of legal non-citizen status. The participant must sign a declaration, under penalty of perjury, attesting to citizenship or legal non-citizen status. The parent or legal guardian must sign for a child or a participant with a legal guardian. (8-22-96)T

03. Definitions for Legal Non-Citizen Requirement. (8-22-96)T

a. A permanent resident is a person admitted to the U.S. for permanent residence. (8-22-96)T

b. A refugee is a person admitted under 207 of the INA. (8-22-96)T

c. An asylee is a person granted asylum under 208 of the INA. (8-22-96)T

d. A deportee is a person with deportation withheld under 243 of the INA. (8-22-96)T

e. A battered immigrant is an immigrant meeting certain INS entry conditions. (8-22-96)T

04. Legal Non-Citizen Requirements and Limitations. Legal non-citizens, who are otherwise eligible, are subject to the requirements and limitations in Subsections 102.04.a. through 102.04.f. (8-22-96)T

a. Permanent residents entering the U.S. August 22, 1996 or later, and having forty (40) quarters of Social Security coverage, can get AABD without time limits after they live in the U.S. for five (5) years. (8-22-96)T

b. Regardless of entry date, honorably discharged veterans, whose discharge reason is not alienage, can get AABD without time limits. This includes the veteran's spouse and unmarried dependent children. (8-22-96)T

c. Regardless of entry date, active duty members of the U.S. Armed Forces who are not on active duty for training only can get AABD without time limits. This includes the participant's spouse and unmarried dependent children. (8-22-96)T

d. Regardless of entry date, refugees can get AABD for five (5) years from their entry date. (8-22-96)T

e. Regardless of entry date, asylees can get AABD for five (5) years from the date asylum is granted. (8-22-96)T

f. Regardless of entry date, individuals whose deportation is withheld can get AABD for five (5) years from the date deportation is withheld. (8-22-96)T

0305. Verifying Alien Legal Non-Citizen Status. Alien A participant's legal non-citizen status claimed by a client must be verified through the INS automated Alien Status Verification Index (ASVI). If INS reports the alien's participant's status cannot be verified through ASVI, secondary proof is required. Secondary proof is required before AABD can be denied, reduced or stopped based on alien legal non-citizen status. (1-1-93)(8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**103. NEW VERIFICATION OF ALIEN LEGAL NON-CITIZEN STATUS.**

Alien Legal non-citizen status must be verified again if the client participant reapplies after the expiration date on the INS document verified with SAVE. Alien Legal non-citizen status must be verified again if the case record does not contain proof of status through SAVE. (1-1-93)(7-1-97)T

**104. VERIFICATION FOR ALL PROGRAMS.**

Proof of alien legal non-citizen status with SAVE for Medicaid, AFDC TAFI, AABD, or Food Stamps is proof for all programs. The SAVE verification must be in the case record. (1-1-93)(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**214. DEEMING RESOURCES.**

In addition to resources of a client participant, the resources of certain other persons are deemed available to the client participant. Deeming of resources occurs only from a spouse to a client participant, from a parent or spouse of a parent to a child client participant, from an essential person to a client participant, or from a sponsor to an alien legal non-citizen client participant. Resource deeming is determined by the client participant's circumstances the first moment of the month. Subsections 214.01 through 214.04.c. list persons, other than the client participant, whose resources are counted as the client participant's. Subsections 214.01 through 214.04 apply to deeming from a sponsor to a legal non-citizen whose sponsor has not signed an I-864 affidavit of support. Subsection 214.05 applies to deeming from a sponsor who has signed an I-864 affidavit of support. (1-1-93)(7-1-97)T

01. Spouse of Adult Client Participant. If a client participant lives with a spouse, the resources of a client participant include those of the spouse. The resource limit is for a couple, if the spouse was a member of the household as of the first (1st) moment of the benefit month. (1-1-93)(7-1-97)T

- a. The couple resource limit applies and both persons countable resources are considered. (1-1-93)
- b. Pension funds the ineligible spouse has on deposit are excluded. Pension funds are held in an individual retirement account (IRA) or in work related pension plans. This includes KEOGH plans for self employed persons. (1-1-93)
- c. Only one (1) home is excluded under the home exclusion. (1-1-93)
- d. Only one (1) special-purpose vehicle is excluded under the vehicle exclusion. (1-1-93)
- e. Only one (1) vehicle is excluded up to four thousand five hundred dollars (\$4,500) of the current market value. (1-1-93)
- f. The household goods and personal effects of both spouses must combined in determining the two thousand dollar (\$2,000) value. (1-1-93)
- g. Governmental retroactive cash payments to the client participant's ineligible spouse for medical or

social services the spouse provided to the client participant, are excluded from resources for one (1) month. A retroactive payment is a payment made in a month after the month it was due. ~~(7-1-93)~~(7-1-97)T

02. Resources of Parent(s) of Child Under Age Eighteen (18). If a child client participant, under age eighteen (18), is living with his parent or the spouse of his parent, their resources must be deemed to the child. Resources exceeding the single person resource limit are deemed to the child, if the child lives with one (1) parent. Resources exceeding the couple limit are deemed to the child, if the child lives with both parents. A stepparent's resources are not deemed to the child for Medicaid eligibility. A stepparent's resources are deemed to the child for AABD grant amount. Resources and exclusions of the child client participant, and the parent and spouse of the parent, are computed separately, with the following limited exclusions: ~~(7-1-94)~~(7-1-97)T

- a. Only one (1) home is excluded under the home exclusion. (1-1-93)
- b. Only one (1) special-purpose vehicle is excluded under the vehicle exclusion. (1-1-93)
- c. Only one (1) vehicle is excluded up to the four thousand five hundred dollar (\$4,500) current market value. (1-1-93)
- d. Two thousand dollars (\$2,000), household goods and personal effects owned by the child are not counted. Two thousand dollars (\$2,000), household goods and personal effects owned by the parent and the parent's spouse are not counted. (1-1-93)
- e. If more than one (1) child client participant lives in the household, the deemed resources are divided and deemed equally to the child clients participants. ~~(1-1-93)~~(7-1-97)
- f. Resources of a stepparent are not deemed to the child for a child's Medicaid eligibility. (1-1-93)
- g. Deeming from parent to child stops the month after the month of the child's eighteenth (18th) birthday, even if the child lives in his parent's household. (1-1-93)
- h. Governmental retroactive cash payments to the client participant's ineligible parent for medical or social services the parent provided to the client participant, are excluded from resources for one (1) month. A retroactive payment is a payment made in a month after the month it was due. ~~(7-1-93)~~(7-1-97)T

03. Resources of Essential Person of Client Participant. If a client participant lives with an essential person, the resources of the essential person must be deemed to the client participant. The essential person's countable resources are combined with the client participant's countable resources. ~~(1-1-93)~~(7-1-97)T

- a. If the essential person is not the client participant's spouse, the single person resource limit is used. ~~(1-1-93)~~(7-1-97)T
- b. If the essential person is the client participant's ineligible spouse, the couple resource limit is used. ~~(1-1-93)~~(7-1-97)T

04. Resources of Sponsor of Alien Legal Non-Citizen's Sponsor - No I-864 Signed. An alien's A legal non-citizen's resources includes those of his sponsor and of the sponsor's spouse, ~~for five (5) years following an alien's admission into the U.S. for permanent residence. Through September 30, 1996, the resources deeming period is five (5) years following the legal non-citizen's admission to the U.S. Beginning October 1, 1996, the resources deeming period is three (3) years following the legal non-citizen's admission to the U.S. if the sponsor has not signed an I-864 affidavit of support.~~ A sponsor's resources are not deemed to the alien legal non-citizen for Medicaid eligibility. A sponsor's resources are deemed to the alien legal non-citizen for AABD grant amount. ~~(7-1-94)~~(8-22-96)T

- a. If the sponsor does not have a spouse living with him, the sponsor's countable resources over the single person resource limit are deemed to the alien client participant. ~~(1-1-93)~~(7-1-97)T
- b. If the sponsor's spouse lives with him, the sponsor couple's resources over the couple resource limit

are deemed to the alien ~~client~~ participant.

~~(1-1-93)~~ (7-1-97)T

c. If a person sponsors two (2) or more alien ~~clients~~ participants, the sponsor's deemed resources are divided and deemed equally to the alien ~~clients~~ participants.

~~(1-1-93)~~(7-1-97)T

05. Resources of Legal Non-Citizen's Sponsor - I-864 Signed. For a legal non-citizen admitted to the U.S on or after August 22, 1996, whose sponsor has signed an I-864 affidavit of support, all resources of the sponsor and sponsor's spouse are deemed to the legal non-citizen for AABD grant and Medicaid eligibility. Deeming continues until the legal non-citizen becomes a naturalized citizen or has forty (40) qualifying quarters of work.

(8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**225. BURIAL SPACE OR PLOT EXCLUSION.**

A burial space, or agreement for the purchase of a burial space, held for the burial of the ~~client~~ participant, spouse, or other member of his immediate family is an excluded resource, regardless of value. Immediate family includes the ~~client~~ participant's spouse, his natural or adoptive parents and his natural, adoptive or step sisters, brothers, children, and their spouses. The burial space exclusion is in addition to, and has no effect on, the burial funds exclusion.

~~(1-1-93)~~(7-1-97)T

01. Burial Space Definition. A burial space is a burial plot, grave site, crypt, mausoleum, casket, urn, niche, or other repository normally used for the deceased's remains. The burial space includes reasonable improvements or additions to burial spaces. These include, but are not limited to, vaults, headstones, markers or plaques, burial containers for caskets, and arrangements to open and close the grave. A contract for care and maintenance of the grave site, sometimes referred to as endowment or perpetual care, can be excluded as a burial space.

(1-1-93)

02. Burial Space Contracts. The burial space is an excluded resource if the contract lists all the burial spaces. The contract must include a value for each space or the total value of all the spaces. The contract must state no further payment is required.

(1-1-93)

03. Multiple Burial Containers Not Excluded. A cemetery lot and a casket may be excluded for the same person. A casket and an urn must not be excluded for the same person.

(1-1-93)

04. Spaces Held By Deemors Excluded. Spaces held by deemors, for the burial of a ~~client~~ participant, spouse, and any member of the ~~client's~~ participant's immediate family are excluded. Spaces held by ~~an~~ a ~~client~~ legal non-citizen sponsor, or essential person, for his own burial are excluded only if the sponsor is a member of the ~~client's~~ participant's immediately family.

~~(1-1-93)~~(8-22-96)T

05. Agreement to Purchase a Burial Space. An agreement to purchase a burial space is a contract with a burial provider. The contract is for a burial space held for the ~~client~~ participant or a member of his immediate family. If the relative's relationship to the ~~client~~ participant is by marriage only, the marriage must be in effect to apply the burial space exclusion.

~~(1-1-93)~~(7-1-97)T

06. Burial Space Held For a Client Participant. A burial space is held for a ~~client~~ participant when someone has title to, or owns, a burial space for the ~~client~~ participant. A burial space is held for a ~~client~~ participant, when a contract is made with a funeral service company for spaces for the ~~client's~~ participant's burial. Until the purchase price is paid in full, a burial space is not held for a ~~client~~ participant under an installment sales contract, if the ~~client~~ participant does not own the space, does not have the right to use the space, and the seller is not obligated to provide the space. Until all payments are made on the contract, the amounts paid are burial funds.

~~(1-1-93)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**270. DEDICATED ACCOUNT FOR SSI PARTICIPANT.**

A dedicated account for past-due SSI benefits, established in a financial institution for an SSI participant under age eighteen (18) by his SSI representative payee and excluded by SSA, is an excluded resource for AABD. (7-1-97)T

~~270~~271. -- 275. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**305. APPLICATION FOR POTENTIAL BENEFITS.**

The ~~client~~ participant must apply for benefits, including RSDI, VA, pensions, Workman's Compensation, or Unemployment Insurance, when there is potential eligibility. ~~(7-1-96)T~~(7-1-97)T

01. SSI. To get an AABD grant, the ~~client~~ participant must apply for SSI benefits, if he is potentially eligible. To get AABD-Medicaid, the ~~client~~ participant does not have to apply for SSI benefits. ~~(7-1-96)T~~(7-1-97)T

02. VAIP. ~~Clients~~ Participants entitled to a VA pension as of December 31, 1978 cannot be required to file for Veterans Administration Improved Pension Plan (VAIP), to get an AABD grant or to get AABD-related Medicaid. ~~(7-1-96)T~~(7-1-97)T

03. Other Benefits. EITC, ~~AFDC~~ TAFI, BIA General Assistance and victim's compensation benefits are exempt from the filing requirement. Child support and alimony payments are not program benefits. A ~~client~~ participant is not required to file for them. ~~(7-1-96)T~~(7-1-97)T

04. Department and ~~Client~~ Participant Responsibilities. The Department must tell the ~~client~~ participant the benefit to apply for, in writing. The ~~client~~ participant must prove, to the Department, he applied for potential benefits as requested. The ~~client~~ participant must be allowed at least thirty (30) days to supply proof he has applied. When a ~~client~~ participant fails to apply for potential benefits, the AABD application must be denied. An open AABD case must be closed as soon as possible following timely notice. ~~(7-1-96)T~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**336. SSI PAYMENTS.**

SSI monthly payments are unearned income. Income from SSI is counted for the month it is intended to cover. The income is the amount reported by SSA, regardless of penalties imposed by SSA to recover an SSI overpayment. SSI withheld to recover an SSI overpayment is unearned income for AABD. ~~(7-1-96)T~~(7-1-97)T

01. SSI Withheld. SSI withheld by SSA because SSA has determined a public institution or congregate care facility where the ~~client~~ participant lives is substandard, is available income. ~~SSI suspended or stopped because of payment restrictions for drug addicts and alcoholics is income.~~ ~~(7-1-96)T~~(7-1-97)T

02. No Increase for Offset. If the ~~client~~ participant receives SSI, his AABD payment must not be increased to offset a reduction in SSI benefits imposed by SSA, because he used excluded burial funds for some other purpose. ~~(7-1-96)T~~(7-1-97)T

03. Retroactive AABD. To compute retroactive AABD benefits, retroactive SSI payments must be counted in monthly increments, against the ~~client~~ participant's monthly budgeted needs for the retroactive period. To compute regular AABD benefits, retroactive SSI payments are unearned income in the month received. ~~(7-1-96)T~~(7-1-97)T



04. SSI Application. The ~~client~~ participant must apply for SSI benefits, if he is potentially eligible, to get an AABD grant. The ~~client~~ participant does not have to apply for SSI benefits to get AABD-related Medicaid. (7-1-96)(7-1-97)T

05. Advance SSI. An SSI payment made as an advance to an SSI applicant who appears to be eligible for SSI and has a financial emergency, is not income for AABD the month received. When SSA reduces ongoing SSI to recover the advance, the SSI payment the participant would have received before the reduction is income for AABD. (7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**350. CHILD SUPPORT PAYMENTS.**

Child support payments are unearned income. One-third (1/3) of a child support payment is excluded for the child receiving support. Child support collected by a State and retained for AFDC TAFI payments is not income. (1-1-93)(7-1-97)T

01. ~~Child Support Fifty Dollar (\$50) Pass Through. Child support collected by a State and paid to an AFDC budget unit as a fifty dollar (\$50) bonus is not income to an AABD child, if the AFDC budget unit would receive the same bonus with the AABD child removed from the AFDC family unit.~~ (1-1-93)

021. Excess Child Support Amounts. Child support collected by a state, but paid to an AFDC a TAFI family because the support exceeds the amount which the state is entitled to keep as reimbursement for AFDC TAFI, is a payment of child support. A per capita portion of this payment is income in the form of child support to the AABD child. The per capita portion is determined by dividing the excess payment by the number of children on whose behalf the child support payment was originally made. (1-1-93)(7-1-97)T

032. Direct Child Support. Support collected by a state for an AABD child, and paid as a child support payment directly to the family, is child support income to the AABD child. (1-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**374. INCOME DEEMING.**

Income deeming counts the income of another person as available to an AABD ~~client~~ participant. Income is deemed because of relationship or legal association with the ~~client~~ participant. A husband and wife living together must share income and resources. A parent and child, related by blood, marriage, or adoption, and living together, must share income and resources. The deemed income must be used to determine the ~~client~~ participant's eligibility for and amount of AABD. (1-1-93)(7-1-97)T

01. Income Deeming Exclusions. Income excluded from deeming is listed in Table 374.01.

**TABLE 374.01 - INCOME DEEMING EXCLUSIONS**

Type of Income	Ineligible Spouse or Parent Ineligible Child Eligible <del>Alien</del> <u>Legal non-citizen</u>	Essential Person	Sponsor of <del>Alien</del> <u>Legal non-citizen</u>
Income excluded by Federal laws other than the Social Security Act	Excluded	Excluded	Excluded

Type of Income	Ineligible Spouse or Parent Ineligible Child Eligible <del>Alien</del> <u>Legal non-citizen</u>	Essential Person	Sponsor of <del>Alien</del> <u>Legal non-citizen</u>
Public Income Maintenance (PIM). Public income maintenance payments include AFDC TAFI, AABD, SSI, refugee case assistance, BIA-GA, VA payments based on need, local, county and state payments based on need, and payments under the 1974 Disaster Relief Act.	Excluded	Not Excluded	Not Excluded
Income used by a PIM program to determine amount of payment to someone other than an SSI recipient.	Excluded	Not Excluded	Not Excluded
Grants, scholarships, fellowships	Excluded	Not (unless excluded by Federal laws)	Not (unless excluded by Federal laws)
Foster care payments.	Excluded	Not Excluded	Not Excluded
Food Stamps and Dept. of Agriculture donated foods	Excluded	Not Excluded	Not Excluded
Home grown produce.	Excluded	Not Excluded	Not Excluded
Tax refunds on real property or food	Excluded	Not Excluded	Not Excluded
Income used in an approved plan for achieving self support (PASS).	Excluded	Not Excluded	Not Excluded
Income used to pay court ordered or Title IV-D support payments.	Excluded	Not Excluded	Not Excluded
Payments based on age and residence (Alaska residents only).	Excluded (not applicable to children)	Not Excluded	Not Excluded
Disaster Assistance.	Excluded	Excluded	Excluded
Infrequent or irregular income.	Excluded	Not Excluded	Not Excluded
Blind Work Expenses (BWE).	Excluded	Not Excluded	Not Excluded
Payments to provide in-home support.	Excluded	Not Excluded	Not Excluded
Home energy assistance and support and maintenance assistance	Excluded	Excluded	Excluded
Child's earned income, up to four hundred dollars (\$400) per month and one thousand six hundred and twenty dollars (\$1,620) per year.	Excluded (not applicable to spouses or parents)	Does not Apply	Does not Apply
Impairment-related work expenses (IRWE)	Excluded	Not Excluded	Not Excluded
Interest on burial funds, appreciation in the value of burial space purchase agreements excluded from resources and interest on the value of burial space purchase agreements.	Excluded	Not Excluded	Not Excluded

(1-1-97)(8-22-96)T

02. When Deeming Starts and Stops. Deeming starts the first full calendar month the ~~client~~ participant is in a deeming situation. Deeming ends the first full calendar month the ~~client~~ participant is not in a deeming situation.  
 (1-1-93)(7-1-97)T

03. Income Deeming Child Age Limit. Deeming to a child ends the month after the child's eighteenth (18th) birthday. Deeming to the child ends even if he lives with his ineligible parent, or the ineligible spouse of his ineligible parent. (1-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**379. DEEMING INCOME FROM SPONSOR TO PERMANENT RESIDENT ALIEN CLIENT LEGAL NON-CITIZEN PARTICIPANT - NO I-864 AFFIDAVIT OF SUPPORT.**

A sponsored alien legal non-citizen, admitted to the United States for permanent residence, is subject to the deeming rules in this Section if the from the sponsor. If the alien has a sponsor and the sponsor has executed signed an affidavit of support or similar agreement, but not the I-864 affidavit of support, the income and resources of the sponsor, and the sponsor's spouse if living with him, must be deemed. A legal non-citizen whose sponsor has signed an I-864 affidavit of support is subject to the deeming rules in Section 380. The deemed income must be counted to determine the client's participant's eligibility and grant amount, even if the client participant does not reside in the sponsor's household. The sponsor's income must not be deemed to the alien participant for Medicaid eligibility.

(1-1-97)(8-22-96)T

01. Five (5) Year Limit. From January 1, 1994 through September 30, 1996 an alien lawfully admitted for permanent residence a legal non-citizen is subject to five (5) years of deeming, unless exempt from deeming.

(1-1-97)(8-22-96)T

02. Three (3) Year Limit. Effective October 1, 1996 the sponsor to alien deeming period for all aliens, regardless of admission date, is three (3) years following the date the alien legal non-citizen is lawfully admitted, unless the alien is exempt from deeming. Deeming from the sponsor to the alien stops the end of the month, three (3) years from the date the sponsored client participant lawfully entered the United States U.S. for permanent residence.

(1-1-97)(8-22-96)T

043. Alien Client Sponsored Legal Non-Citizen Exempt From Deeming. A lawfully admitted alien legal non-citizen client is exempt from sponsor to alien deeming if one (1) or more of the conditions in Subsections 379.042.a. through 379.042.j. applies.

(1-1-93)(7-1-97)T

a. The alien legal non-citizen client was admitted to the United States U.S. as a refugee, asylee, or parolee.

(1-1-93)(7-1-97)T

b. The alien legal non-citizen client first applied for AABD before October 1, 1980.

(1-1-93)(7-1-97)T

c. The alien legal non-citizen client is a permanent resident under color of law.

(1-1-93)(7-1-97)T

d. The alien legal non-citizen client's entry into the United States U.S. was sponsored by a church, other social service organization, or an employer who has extended a job offer to him.

(1-1-93)(7-1-97)T

e. The alien legal non-citizen client becomes blind or disabled after he is admitted to the United States U.S.

(1-1-93)(7-1-97)T

f. The alien legal non-citizen client was sponsored by and resides in the same household with his ineligible spouse or ineligible parent. The alien client participant is subject to deeming only from the ineligible spouse and ineligible parent.

(1-1-93)(7-1-97)T

g. The alien's legal non-citizen's sponsor dies.

(1-1-93)(7-1-97)T

h. The alien legal non-citizen entered the United States U.S. before January 1, 1972 and has continuously resided here since then.

(1-1-93)(7-1-97)T

- i. The ~~alien~~ legal non-citizen was legalized under the Immigration Reform and Control Act of 1986. ~~(1-1-93)(7-1-97)T~~
- j. The ~~alien~~ legal non-citizen has resided in the ~~United States~~ U.S. for thirty-six (36) months beginning with the month he was admitted for permanent residence or granted permanent residence status. ~~(1-1-93)(7-1-97)T~~
- k. The ~~alien~~ legal non-citizen was admitted under section 249 of the ~~Immigration and Nationality Act~~. ~~These aliens are called~~ INA as a "registry" aliens legal non-citizen. ~~(1-1-95)(7-1-97)T~~
- l. The ~~alien~~ legal non-citizen is an applicant for permanent residence who is an Amerasian or a specified relative of an Amerasian. The Amerasian must be born in Vietnam between January 1, 1962 and January 1, 1976. A specified relative is a spouse, child, parent or stepparent of the Amerasian, or someone who has acted in the place of a parent of an Amerasian and/or his spouse or child. ~~(1-1-95)(7-1-97)T~~
- m. The ~~alien~~ legal non-citizen is an applicant for adjustment under the Cuban/Haitian provisions of section 202 of the Immigration Reform and Control Act of 1986. ~~(1-1-95)(7-1-97)T~~
024. Sponsor/~~Alien Legal Non-Citizen~~ Relationships. Sponsor/~~alien legal non-citizen~~ relationships and deeming rules are listed in Subsections 379.023.a. through 379.023.f. ~~(1-1-93)(7-1-97)T~~
- a. If the ~~alien legal non-citizen's~~ client's sponsor is his ineligible spouse, and the ~~alien legal non-citizen~~ client does not reside in the same household with his ineligible spouse, the sponsor ~~to alien~~ deeming provisions must apply. ~~(1-1-93)(7-1-97)T~~
- b. If the ~~alien legal non-citizen~~ client is a child, and does not reside in the same household with his sponsor parent(s), the sponsor ~~to alien legal non-citizen~~ deeming provisions must apply. ~~(1-1-93)(7-1-97)T~~
- c. If the ~~client~~ participant is a child whose ineligible parent(s) and sponsor both have income available for deeming to him, the income of the ineligible parent(s) must be deemed as in Subsection 376. ~~(1-1-93)(7-1-97)T~~
- d. If the child remains eligible after income is deemed from his ineligible parent(s), the sponsor's income must be deemed to him under the sponsor ~~to alien~~ deeming procedures. ~~(1-1-93)(7-1-97)T~~
- e. If each member of a ~~client~~ participant couple has his own sponsor, separate deeming computations must be used to find the income to be deemed. The couple's countable income must include the combined deemed incomes. ~~(1-1-93)(7-1-97)T~~
- f. If one (1) member of a couple with separate sponsors is not eligible, the income of the ineligible spouse must be deemed to the ~~client~~ participant as in Section 375. This is in addition to income deemed from the sponsor. ~~(1-1-97)(7-1-97)T~~
035. Sponsor to ~~Alien Legal Non-Citizen Client~~ Deeming Procedures. The ~~alien legal non-citizen's~~ client's budget deficit must be computed. Budget the ~~alien legal non-citizen's~~ client's actual needs, as if he is a single person living alone. Subtract the ~~alien legal non-citizen's~~ client's own income, less exclusions and disregards. If the ~~alien client~~ participant has a ~~client~~ participant spouse who is also an ~~alien legal non-citizen~~, compute their needs as an ineligible couple. Subtract the couple's income, less applicable income exclusions, from the needs of the couple. If there is no budget deficit, the ~~alien client~~ participant is not eligible for AABD. If there is a budget deficit, the procedures in Subsections 379.034.a. through 379.034.e. must be followed. This determines the income of the ~~alien legal non-citizen's~~ client's sponsor and the sponsor's spouse, if living with him, deemed when computing the ~~alien legal non-citizen's~~ client's eligibility and grant amount. A sponsor's income is not deemed to the ~~alien legal non-citizen~~ for Medicaid eligibility. ~~(7-1-93)(7-1-97)T~~
- a. Subject to Deeming. The ~~alien client~~ participant must be subject to the sponsor ~~to alien~~ deeming requirement. ~~(1-1-93)(7-1-97)T~~
- b. Compute Income. Compute the gross monthly earned and unearned income of the sponsor, and the

sponsor's spouse, if living with him. Do not count income excluded from deeming. (1-1-93)

c. Subtract Living Allowance. Subtract a living allowance for the sponsor the sponsor's spouse, if living with him. The sponsor's living allowance is the basic allowance for a single person living alone. The living allowance for the sponsor's spouse is one-half the basic allowance for a single person living alone. Round up cents to the next dollar. (1-1-95)

d. Subtract Dependent Living Allowance. Subtract a living allowance for each dependent claimed by the sponsor on his most recent Federal tax return. Do not subtract an allowance for the ~~alien legal non-citizen~~ client. Do not subtract an allowance for the sponsor's spouse in this step. The living allowance for each dependent is one-half the basic allowance for a single person living alone. Round up cents to the next dollar. Do not reduce the living allowance by the dependent's income. ~~(1-1-95)~~(7-1-97)T

e. Deem Income. Income remaining is deemed to the ~~client~~ participant from the sponsor. It is counted as unearned income. The deemed income is added to the ~~client's~~ participant's other unearned income to compute AABD eligibility and grant amount. ~~(1-1-93)~~(7-1-97)T

**380. DEEMING INCOME FROM SPONSOR TO LEGAL NON-CITIZEN - SPONSOR SIGNED I-864 AFFIDAVIT OF SUPPORT.**

A sponsored legal non-citizen is subject to deeming from the sponsor. If the sponsor has not signed an I-864 affidavit of support, deeming in Section 379 applies. If the sponsor has signed an I-864 affidavit of support, all income of the sponsor and the sponsor's spouse is deemed to the legal non-citizen for AABD grant and Medicaid eligibility. Deeming continues until the legal non-citizen becomes a naturalized citizen or has forty (40) quarters of work.

(8-22-96)T

~~380-381~~. -- 399. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**407. BASIC ALLOWANCE.**

The basic allowance is budgeted for ~~clients~~ participants not living in a nursing facility. The ~~client's~~ participant's living situation listed in Subsections 407.01 through 407.09 of these rules must be used to determine his basic allowance.

~~(7-1-93)~~(7-1-97)T

01. Living Alone. A ~~client~~ participant must be budgeted five hundred twelve dollars (\$512) monthly as a basic allowance, if there is one (1) person in the AABD grant. ~~(1-1-97)~~(7-1-97)T

02. Living with Essential Person. The essential person is chosen by the ~~client~~ participant. The presence of the essential person, in the household, must be essential to the ~~client~~ participant's well being. The essential person must give services to the ~~client~~ participant that would have to be provided anyway if the ~~client~~ participant lived alone. The ~~client~~ participant must decide if an essential person he lives with is to be included in his AABD grant. The needs, income, and resources of the essential person included in the AABD grant, must be counted in determining the AABD grant. The monthly total basic allowance for the ~~client~~ participant and the essential person is seven hundred twenty-two dollars (\$722). ~~(1-1-97)~~(7-1-97)T

03. Living with Another ~~Client~~ Participant. The other ~~client~~ participant must not be the AABD ~~client's~~ participant's spouse. ~~The other client may receive AFDC if he is not the AABD client's spouse or dependent child. The grant for each client is determined separately.~~ The AABD ~~client~~ participant must be budgeted a basic allowance of five hundred twelve dollars (\$512) monthly, if there is one (1) person in the AABD grant. ~~(1-1-97)~~(7-1-97)T

04. Living with ~~Client~~ Participant Spouse. If the AABD ~~client~~ participant lives with his AABD ~~client~~ participant spouse in the same household, the basic allowance is based on two (2) persons in the AABD grant. The two (2) AABD spouses in the AABD grant must be budgeted a basic allowance of seven hundred twenty-two dollars (\$722) monthly. ~~(1-1-97)~~(7-1-97)T

05. Living in Another Person's Household. A client participant living in another person's household must be budgeted a basic allowance of five hundred twelve dollars (\$512) monthly for one (1) person in the AABD grant. For two (2) persons in the AABD grant, the basic allowance is seven hundred twenty-two dollars (\$722) monthly. ~~(1-1-97)T(7-1-97)T~~

06. Living with AFDC TAFI Child. A client participant living with his AFDC TAFI child must be budgeted five hundred twelve dollars (\$512) monthly as a basic allowance, if there is one (1) person in the AABD grant. If there are two (2) persons in the AABD grant the basic allowance for two (2) client participants is seven hundred twenty-two dollars (\$722) monthly. ~~(1-1-97)T(7-1-97)T~~

07. Living in Hotel or Rooming House. A client participant, living in a hotel or rooming house, must be budgeted the basic allowance of five hundred twelve dollars (\$512) monthly. A client participant and his AABD spouse, living in a hotel or rooming house must be budgeted the basic allowance for two (2) client participants, seven hundred twenty-two dollars (\$722) monthly. ~~(1-1-97)T(7-1-97)T~~

08. Room and Board, Adult Care, or Foster Care. An AABD client participant living in a room and board home, a licensed adult residential care facility, or a licensed adult foster care home is budgeted a basic allowance of fifty-eight dollars (\$58) monthly. ~~(1-1-93)T(7-1-97)T~~

09. SIGRIF. An AABD client participant living in a semi-independent group residential facility must be budgeted a basic allowance of three hundred forty-nine dollars (\$349) monthly. A client participant living with his client participant spouse in a SIGRIF must be budgeted a basic allowance of three hundred and forty-nine dollars (\$349) monthly. ~~(7-1-96)T(7-1-97)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**463. AABD GRANT PAYMENTS.**

AABD grant payments must be made at one hundred percent (100%) of a client's participant's budget deficit.

~~(1-1-93)T(7-1-97)T~~

01. AABD Payment for Couple. An AABD couple living together in the same household will receive their monthly AABD payment in one (1) warrant payment.

~~(1-1-93)T(7-1-97)T~~

02. AABD Payment Procedures. If a client for AABD participant is found eligible, the Department must take all necessary actions to issue the AABD grant payment. If the budget deficit is not in an even dollar amount, the AABD grant payment must be paid at the next higher dollar.

~~(1-1-93)T(7-1-97)T~~

03. Months For Which AABD Payment is Made. If a client participant meets all eligibility factors for AABD on the date of application, the effective date of the AABD grant is the date of application. AABD grant payments must continue to be made to a client participant through the month eligibility ceases. A client participant for AABD for the aged will be eligible to receive a grant payment starting the month he reaches age sixty-five (65).

~~(1-1-93)T(7-1-97)T~~

04. ~~Form and Negotiation of Payment. AABD grant payments are made in the form of a state warrant. AABD grant payments must be delivered to clients through the U.S. Postal Service. Even if a client requests otherwise, AABD grant payments are to be delivered only to persons awarded the grant. State warrants must be endorsed only by the person named on the warrant. If a client endorses his warrant by mark rather than by signature, the mark must be witnessed by two (2) persons who can write. Each witness is to sign the warrant and list his place of residence in full.~~

~~(1-1-93)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**503. TEN (10) DAY NOTICE NOT REQUIRED.**

Ten (10) day notice is not required, when the conditions in Subsections 503.01 through 503.11 are met. The notice must be adequate. (1-1-95)

01. Death of ~~Client~~ Participant. The Department has proof of the ~~client's~~ participant's death. (1-1-93)(7-1-97)T
02. Statement of ~~Client~~ Participant. The Department receives a clear written statement signed by a ~~client~~ participant that he no longer wishes aid, or gives information requiring ending or reduction of aid. The ~~client~~ participant must state, in writing, he understands ending or lowering of aid is the result of giving the information. (1-1-93)(7-1-97)T
03. ~~Client~~ Participant in Institution. The ~~client~~ participant has been admitted or committed to an institution, and further payments to that individual do not qualify for federal financial participation under the state plan. (1-1-93)(7-1-97)T
04. Nursing Care. The ~~client~~ participant has been placed in a nursing facility, or Intermediate Care for the Mentally Retarded. (1-1-93)(7-1-97)T
05. ~~Client's~~ Participant's Address Unknown. The ~~client's~~ participant's whereabouts are unknown. Department mail directed to him has been returned by the Post Office, showing no known forwarding address. The ~~client's~~ participant's check must be made available to him if his whereabouts become known during the payment period covered by the check. (1-1-93)(7-1-97)T
06. Aid in Another State. A ~~client~~ participant has been approved for aid in another state. The new state providing aid has verified the ~~client's~~ participant's status. (1-1-93)(7-1-97)T
07. Change in Level of Care. The ~~client's~~ participant's doctor prescribed a change in the level of long-term care. (1-1-93)(7-1-97)T
08. Eligible One (1) Month. The ~~client~~ participant is eligible for aid only during the calendar month of his application for aid. (1-1-93)(7-1-97)T
09. ~~Alien~~ Non-Citizen with Emergency. The ~~client~~ participant is an ~~alien~~ illegal or legal non-citizen whose MA eligibility ends the day his emergency medical condition stops. (1-1-93)(8-22-96)T
10. Retroactive Medicaid. The ~~client~~ participant is not now eligible for Medicaid but is eligible for a prior period. (1-1-93)(7-1-97)T
11. Special Allowance. A special allowance granted for a specific period is stopped. The ~~client~~ participant was told, in writing, at the start of the allowance, it would continue only for the specified period. (1-1-93)(7-1-97)T

**504. RETROACTIVE AABD PAYMENTS.**

Retroactive AABD payments will be made in the circumstances listed below: (1-1-93)

01. AABD Payments Due to Department Error. Retroactive AABD payments are made if a ~~client~~ participant is underpaid, due to Department error. (1-1-93)(7-1-97)T
02. AABD Payments Due to Hearing Decision. Retroactive AABD payments are made if a fair hearing decision is favorable to a ~~client~~ participant. Retroactive AABD payments are made if the dispute is resolved in the ~~client's~~ participant's favor before the fair hearing. The Department must make AABD payments retroactively to the date of the incorrect action. The ~~client~~ participant must remain eligible for AABD during the period reviewed by the hearing. (1-1-93)(7-1-97)T

03. AABD Payments Due to SSI Delays. Retroactive AABD payments are made if an AABD applicant's SSI payments are delayed because of SSA delays in determining SSI eligibility. (7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**603. MEDICAID EFFECTIVE DATE.**

An applicant must meet all eligibility requirements on the date of application. The Medicaid effective date is the first (1st) day of the application month if the client participant is eligible. The Medicaid effective date can be backdated. Medicaid effective dates are listed in Subsections 603.01 through 603.05. (1-1-93)(7-1-97)T

01. Normal Eligibility. Medicaid coverage begins on the first (1st) day of the application calendar month and up to three (3) months before the application month. (1-1-93)

02. Backdated Eligibility Applicant Eligible in Application Month. If an applicant is determined eligible for Medicaid, the effective date of eligibility must be no earlier than the first day of the third calendar month before the application was filed, provided the applicant was eligible for Medicaid during the prior period. (1-1-93)

03. Backdated Eligibility Applicant Not Eligible in Application Month. An applicant not eligible for Medicaid at the time of his application, must have his eligibility for backdated coverage determined. The effective date of eligibility must be no earlier than the first day of the third calendar month before the application was filed. Medicaid coverage must be provided for each month the client participant was eligible during the three (3) month period. (1-1-93)(7-1-97)T

04. Partial Backdated Eligibility. If an applicant for Medicaid was eligible at one (1) or more separate times during the backdated period, the Department (at the applicant's request) must determine the Medicaid eligible months. Coverage must be provided for each eligible month services payable by Medicaid were received. (1-1-93)

05. Ineligible Alien or Illegal Non-Citizen. Ineligible Alien or illegal non-citizen coverage is restricted to emergency services. (1-1-93)(8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**605. CITIZENSHIP AND ALIENAGE LEGAL NON-CITIZEN REQUIREMENT.**

~~The client must be a citizen or national of the United States, or an eligible alien. The client or legal guardian, if the client is under age eighteen (18), must sign a declaration, under penalty of perjury, attesting to citizenship or alien status. The participant must be a citizen or national of the U.S. or an eligible legal non-citizen.~~ (1-1-93)(8-22-96)T

01. Eligible Aliens Legal Non-Citizens Before August 22, 1996. Eligible aliens legal non-citizens are ~~legal aliens persons~~ lawfully admitted to the ~~United States~~ U.S. for permanent residence. Eligible aliens legal non-citizens are also persons lawfully living in the ~~United States~~ U.S. under color of law. The person can get Medicaid without time limits. (See subsections 605.01.a through 605.01.s.); (8-22-96)T(8-22-96)T

a. Aliens granted lawful temporary resident status under sections 245A and 210 of the INA, if the individual is aged, blind or disabled using AABD criteria, under eighteen (18) years of age or a Cuban/Haitian Entrant. (1-1-93)

b. Aliens granted lawful temporary resident status under section 210. of the INA. (1-1-93)

e. Aliens residing in the United States with knowledge and permission of the INS whose departure the INS does not enforce. (1-1-93)



- d. ~~Aliens admitted under section 203(a)(7) of the INA. Ask for a copy of INS Form I-94 endorsed "Refugee-Conditional Entry". (1-1-93)~~
- e. ~~Aliens, including Cuban/Haitian entrants, paroled in the United States under section 212(d)(5). Ask for a copy of INS Form I-94 stamped Cuban/Haitian entrant (Status Pending) reviewable January 15, 1981. (1-1-93)~~
- f. ~~Aliens residing in the United States under an indefinite stay of deportation. Ask for an INS letter with this information or INS Form I-94 with this notation. (1-1-93)~~
- g. ~~Aliens residing in the United States under an indefinite voluntary departure. Ask for an INS letter or INS Form I-94 showing voluntary departure has been granted. (1-1-93)~~
- h. ~~Aliens and their families on whose behalf a relative petition has been approved, who are entitled to voluntary departure, and whose departure the INS does not enforce. Ask for a copy of INS Form I-94 or Form I-210 or a letter showing status. (1-1-93)~~
- i. ~~Aliens who have filed applications for change of status under section 245 of the INA, the INS has accepted as "properly filed" and whose departure INS does not enforce. Ask for a copy of INS Form I-94 or I-181 or a passport appropriately stamped. (1-1-93)~~
- j. ~~Aliens granted stays of deportation by court order, statute or regulation, or by individual decision of the INS under section 106 of the INA or relevant INS instructions whose departure INS does not enforce. Ask for a copy of INS Form I-94 or a letter for INS or a copy of a court order establishing the alien's status. (1-1-93)~~
- k. ~~Aliens granted asylum under section 208 of the INA. Ask for a copy of INS Form I-94 properly endorsed. (1-1-93)~~
- l. ~~Aliens admitted as refugees under section 207 or section 203(a)(7) of the INA. Ask for a copy of INS Form I-94 properly endorsed. (1-1-93)~~
- m. ~~Aliens granted voluntary departure under section 242(b) of the INA whose departure the INS does not enforce. Ask for INS Form I-94 or Form I-120 bearing a departure date. (1-1-93)~~
- n. ~~Aliens granted deferred action status under INS Operations Instruction 1003.01(a)(ii) before June 15, 1984 or 242.1(a)(22) issued June 15, 1984 and later. Ask for a copy of INS Form I-210 or a letter showing departure has been deferred. (1-1-93)~~
- o. ~~Aliens residing in the United States under orders of supervision under section 242 of the INA. Ask for a copy of Form I-220 B. (1-1-93)~~
- p. ~~Aliens who have entered and continuously resided in the United States since before January 1, 1972 or any date established by section 249 of the INA. (1-1-93)~~
- q. ~~Aliens granted suspension of deportation under Section 244 of the INA and whose departure the INS does not enforce. Ask for an order from an immigration judge showing deportation has been withheld. (1-1-93)~~
- r. ~~Aliens whose deportation has been withheld under section 243(h) of the INA. Ask for an order from an immigration judge showing deportation has been withheld. (1-1-93)~~
- s. ~~Any other aliens living in the United States with the knowledge and permission of the INS and whose departure the INS does not enforce. This group includes permanent non-immigrants as established by Public Law 99-239, and persons granted Extended Voluntary Departure due to conditions in the alien's home country based on a decision of the Secretary of State. (1-1-93)~~
02. ~~Ineligible Legal Aliens. Ineligible legal aliens are admitted to the U.S. for permanent residence. They are not eligible for AABD. Ineligible legal aliens are listed in Subsections 605.02.a. and 605.02.b. (1-1-93)~~

~~a. Non-disabled alien admitted under INA Section 245. Legal aliens admitted for temporary or permanent residence under section 245A of the INA, who are age eighteen (18) through sixty-four (64), not pregnant, and not blind or disabled under SSA criteria for blindness and disability. (1-1-93)~~

~~b. Special Agricultural Workers (SAW). Legal aliens admitted as Special Agricultural Workers under the section 210 of the INA, who are age eighteen (18) through sixty-four (64), not pregnant, and not blind or disabled under SSA criteria for blindness and disability. (1-1-93)~~

~~03. Eligible Aliens August 22, 1996 and Later. An eligible alien is one (1) of the following: (8-22-96)T~~

~~a. An alien is an eligible alien for five (5) years from the date he obtained a status in Subsections 605.03.a.i. through 605.03.a.iii. (8-22-96)T~~

~~i. Refugee admitted under Section 207 of the Immigration and Nationality Act. (8-22-96)T~~

~~ii. Asylee admitted under Section 208 of the Immigration and Nationality Act. (8-22-96)T~~

~~iii. Alien whose deportation is withheld under Section 243(h) of the Immigration and Nationality Act. (8-22-96)T~~

~~b. An alien is an eligible alien indefinitely if he is one (1) of the following: (8-22-96)T~~

~~i. A veteran honorably discharged for a reason other than alienage and the veteran's spouse and unmarried dependent child. (8-22-96)T~~

~~ii. An active duty member of the U.S. Armed Forces who is not on active duty for training only and the member's spouse and unmarried dependent child. (8-22-96)T~~

~~04. Other Aliens. Aliens other than those listed in Subsections 605.02.a. and 605.02.b. are eligible only for treatment of an emergency medical condition, including emergency labor and delivery, if they would otherwise qualify for AABD. These aliens are not required to furnish a SSN or make a written declaration of their alien status. (1-1-93)~~

02. Eligible Legal Non-Citizens August 22, 1996 and Later. The participant must be a citizen of the U.S. or legal non-citizen. Nationals of American Samoa or Swain's Island are the equivalent of U.S. citizens. Only legal non-citizens listed in Subsections 605.03.a. through 605.03.g. are legal non-citizens. The participant must provide proof of citizenship or proof of legal non-citizen status. The participant must sign a declaration, under penalty of perjury, attesting to citizenship or legal non-citizen status. The parent or legal guardian must sign for a child or a participant with a legal guardian. (8-22-96)T

03. Definitions for Legal Non-Citizen Requirement. (8-22-96)T

a. A permanent resident is a person admitted to the U.S. for permanent residence. (8-22-96)T

b. A refugee is a person admitted under 207 of the INA. (8-22-96)T

c. An asylee is a person granted asylum under 208 of the INA (8-22-96)T

d. A deportee is a person with deportation withheld under 243 of the INA. (8-22-96)T

e. A conditional entrant is a person granted conditional entry under 302(a)(7) of the INA. (8-22-96)T

f. A battered immigrant is an immigrant meeting certain INS entry conditions. (8-22-96)T

04. Legal Non-Citizen Requirements and Limitations. Legal non-citizens, who are otherwise eligible, are subject to the requirements and limitations in Subsections 605.04.a. through 605.04.f. (8-22-96)T

a. Permanent residents entering the U.S. August 22, 1996 or later, and having forty (40) quarters of Social Security coverage, can get Medicaid without time limits after they live in the U.S. for five (5) years.

(8-22-96)T

b. Regardless of entry date, honorably discharged veterans, whose discharge reason is not alienage, can get Medicaid without time limits. This includes the veteran's spouse and unmarried dependent children.

(8-22-96)T

c. Regardless of entry date, active duty members of the U.S. Armed Forces who are not on active duty for training only can get AABD without time limits. This includes the participant's spouse and unmarried dependent children.

(8-22-96)T

d. Regardless of entry date, refugees can get Medicaid for five (5) years from their entry date.

(8-22-96)T

e. Regardless of entry date, asylees can get Medicaid for five (5) years from the date asylum is granted.

(8-22-96)T

f. Regardless of entry date, individuals whose deportation is withheld can get Medicaid for five (5) years from the date deportation is withheld.

(8-22-96)T

05. Verifying Alien Legal Non-Citizen Status. ~~Alien~~ A participant's legal non-citizen status ~~claimed by a client~~ must be verified, through the INS automated Alien Status Verification Index (ASVI). If INS reports the ~~alien's~~ participant's status cannot be verified through ASVI, secondary proof is required. ~~Secondary proof is required before AABD can be denied, reduced or stopped based on alien legal non-citizen status.~~

(1-1-93)(8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**607. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.**

The Medicaid ~~client~~ participant must furnish his SSN(s) as a condition of Medicaid eligibility. The Department must help the ~~client~~ participant if he has difficulty getting an SSN. If the ~~client~~ participant has applied for an SSN, assistance must not be denied, delayed, or terminated pending issuance of the SSN. If the ~~client~~ participant fails to furnish his SSN, or if he applies for an SSN and fails to furnish his SSN when issued, Medicaid must be stopped after proper notice. If the Medicaid ~~client~~ participant is also an AABD ~~client~~ participant, the SSN requirement for AABD applies. An ineligible ~~alien~~ illegal non-citizen with an emergency medical condition is not subject to the SSN requirement.

(1-1-93)(8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**613. PATIENT LIABILITY - INCOME AVAILABLE TO MEET COST OF LONG-TERM CARE FOR PERSON WITH NO COMMUNITY SPOUSE.**

Income to meet the cost of long-term care, also called patient liability, for a person with no community spouse, is computed as described below.

(1-1-93)

01. Income of Single Person or Person With Long-Term Care Spouse. For a single person, or person whose spouse is also in long-term care and chooses the SSI method of calculating the amount of income and resources, the patient liability is his total income less the deductions in Subsections 613.01.a. through 613.01.f. of these rules.

(1-1-93)

a. Income excluded in determining eligibility for an AABD money payment must be deducted.

(1-1-93)

b. A VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse must be deducted. (1-1-95)

c. Deductions for client participant in facility. The deductions specified in Subsection 613.03 of these rules must be subtracted. ~~(1-1-97)F(7-1-97)T~~

d. The SSI payment for a person with special SSI eligibility status, entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility must be deducted. (1-1-93)

e. The AABD payment, and income used to compute the AABD payment, for a client participant paid continued AABD payments up to three (3) months in long-term care, must be deducted. ~~(1-1-93)(7-1-97)T~~

f. The protected VA pension for a veteran with no spouse or dependents or for a surviving spouse with no dependents must be deducted. The month after the veteran or a surviving spouse enters a nursing facility, VA will reduce his pension (including Aid and Attendance) to a protected amount. This protected pension must not be counted for patient liability. (7-1-93)

02. Community Property Income of Long-Term Care Client Participant With Long-Term Care Spouse. Income used to calculate patient liability for a person, whose spouse is also in long-term care, who chooses the community property method of calculating income and resources, is one-half (1/2) his share of the couple's community income, plus his own separate income. The deductions specified in Subsections 613.01.a. through 613.01.f. of these rules must be taken from his income. ~~(1-1-93)(7-1-97)T~~

03. Income of Client Participant in Facility. A person residing in the long-term care facility at least one (1) full calendar month, beginning with his most recent admission, must have the deductions in Subsections 613.03.a. through 613.03.i. of these rules taken from his income. AABD exclusions are first applied to the income. Total monthly income includes income paid into a pension (Miller) trust that month. The income deductions must be taken in the order listed. Remaining income is his patient liability. A client participant not residing in the long-term care facility for at least one (1) full calendar month, beginning with his most recent admission, has no patient liability computed. ~~(7-1-96)(7-1-97)T~~

a. Deduct thirty dollars (\$30). This is kept by the client participant for his personal needs. For a veteran or surviving spouse with a protected VA pension, the protected pension substitutes for the thirty dollar (\$30) personal needs deduction. ~~(7-1-93)(7-1-97)T~~

b. An employed client participant or client participant engaged in sheltered workshop or work activity center activities, is also budgeted the lower of the personal needs deduction of eighty dollars (\$80) or his earned income. The client's participant's total personal needs allowance must not exceed one hundred and ten dollars (\$110). For a veteran or surviving spouse with sheltered workshop or earned income, and a protected VA pension, the total must not exceed eighty dollars (\$80). This is a deduction only. No actual payment can be made to provide for personal needs. ~~(7-1-93)(7-1-97)T~~

c. Two hundred and twelve dollars (\$212) for home maintenance cost must be deducted if the client participant had an independent living situation, before his admission for long-term care. His physician must certify in writing the client participant is likely to return home within six (6) months, following the month of admission to a long-term care facility. For a person who was in a room and board home prior to admission to long-term care, the Room and Board Allowance is deducted. This is a deduction only. No actual payment can be made to maintain the client's participant's home. ~~(1-1-93)(7-1-97)T~~

d. A maintenance need deduction must be allowed for a family member, living in the long-term care client's participant's home. A family member is claimed, or could be claimed, as a dependent on the Federal Income Tax return of the long-term care client participant. The family member must be a minor or dependent child, dependent parent, or dependent sibling of the long-term care participant. The maintenance need deduction is the dependent's TAFI grant according to AFDC need standard for the number of dependents. The AFDC need standard is in Idaho Department of Health and Welfare Rules, Title 03, Chapter 01, Section 414.08, Rules Governing Aid to Families with

~~Dependent Children Temporary Assistance for Families in Idaho. The maintenance need deduction is reduced by the family member's countable income. His countable income is his gross income, minus AABD exclusions, minus the first twenty dollars (\$20) of unearned income and the first sixty five dollars (\$65) of earned income. Round the remainder to the next highest dollar if an uneven amount. The remainder is deducted from the client's income as the dependent's maintenance need.~~ (7-1-96)(7-1-97)T

e. Deduct expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Medicare Part B premiums must not be deducted, if the client participant got SSI or AABD payment the month prior to the month for which patient liability is being calculated. (1-1-93)(7-1-97)T

f. **Mandatory Income Taxes.** Deduct taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the client participant receives the income. (7-1-96)(7-1-97)T

g. **Guardian Fees.** Deduct court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars (\$25). Where the guardian and trustee are the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars (\$25) monthly. (7-1-96)

h. **Trust Fees.** Deduct up to twenty-five (\$25) monthly paid to the trustee for administering the client's participant's trust. (7-1-96)(7-1-97)T

i. **Impairment-Related Work Expenses.** Deduct impairment-related work expenses for an employed client participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services, purchased or rented to perform work. The items must be needed because of the client's participant's impairment. The actual monthly expense of the impairment-related items is deducted. Expenses must not be averaged. (7-1-96)(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**618. FEDERAL SPOUSAL IMPOVERISHMENT (FSI) METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE.**

The FSI method must be used to calculate income and resources of an aged, blind, or disabled married client participant, who entered long-term care on or after September 30, 1989. The FSI method must be used where the client participant is an SSI recipient. The client participant must have a spouse living in the community. A married aged, blind, or disabled client participant in long-term care, without a spouse in the community, is subject to the SSI or CP method. Terms used in the FSI method are listed in Subsections 618.01.a. through 618.01.e. of these rules. (7-1-93)(7-1-97)T

01. **Terms Used In FSI Method.** (1-1-93)

a. The long-term care spouse is in long-term care. A long-term care spouse must be in a medical institution or nursing facility, or be an HCBS client participant, for thirty (30) consecutive days, or appear likely to remain in the facility or need HCBS thirty (30) days. The husband or wife of the long-term care spouse must not be in a medical institution or nursing facility, or an HCBS client participant. (1-1-93)(7-2-97)T

b. The community spouse is the husband or wife of the long-term care client participant. The community spouse lives in the community, is not in long-term care or an HCBS client participant. (1-1-93)(7-1-97)T

c. A continuous period of long-term care is a period of residence either in a medical institution providing nursing facility services, or at home receiving HCBS. A continuous period of long-term care is a combination of institution and personal care services likely to last at least thirty (30) consecutive days. A client participant is likely to remain in an institution and/or receive HCBS for thirty (30) consecutive days if the Regional

Medicaid Unit decides the ~~client~~ participant is likely to remain in long-term care for at least thirty (30) consecutive days. The ~~client~~ participant may not actually remain in long-term care. Continuity is broken by absence from the institution, or a lapse in HCBS eligibility, of thirty (30) consecutive days. The thirty (30) consecutive days of long-term care must not begin on a day the ~~client~~ participant is hospitalized. Hospitalization during the thirty (30) consecutive days, but subsequent to the first day, does not interrupt the thirty (30) consecutive days.

~~(1-1-93)~~(7-1-97)T

d. The start of a continuous period of long-term care is the first (1st) month of long-term care or receipt of HCBS. (1-1-93)

e. Nursing facility services are services at the nursing facility level or the intermediate care for the mentally retarded level provided in a medical institution such as a long-term care facility. (1-1-93)

02. Assessment Date and Counting FSI Resources. The assessment date is the start date of the first continuous period of long-term care, on or after September 30, 1989. The assessment date must be used to determine the couple's total FSI resources. The resource assessment is done at the request of either spouse, after one spouse is in long-term care or begins HCBS. The couple may request an assessment before applying for Medicaid. The Department must assess and document the total value of the resources either spouse, or both spouses, had ownership interest in, as of the date of the first continuous period of long-term care on or after September 30, 1989. This is the only assessment. No later assessment is done. State laws relating to community property or the division of marital property are not applied in determining the FSI total combined resources of the couple. The long-term care spouse and community spouse must provide proof of the composition and value of all resources held by the couple as of the assessment date. The Department must identify the types of proof required and assist in obtaining the proof when requested. The assessment must not be completed until all proof is obtained. Resources excluded in determining AABD eligibility are excluded in determining the couple's total combined FSI resources except: There is no limit on the total value of household goods and personal effects and one (1) automobile is excluded regardless of its value. Any additional automobiles are countable resources in the amount of their equity value. Excess resources offered for sale, are not excluded from the couple's total combined resources for the FSI resource assessment. Jointly owned real property is not excluded, if the community spouse is the joint owner. The SSI method or CP method is used when long-term care began before September 30, 1989. (7-1-96)

03. Compute the One-Half (1/2) Spousal Share. The Department must compute the spousal share of the couple's resources. The spousal share is one-half (1/2) of the couple's total combined resources on the assessment date. The spousal share does not change, even if the ~~client~~ participant leaves long-term care and then enters long-term care again. The Department must complete a resource assessment form listing all resources held by the community spouse, long-term care spouse, or both, as of the assessment date. The total resource value and spousal share, must be entered on the resources assessment form. The separate resources of the community spouse must be entered and totalled on the resources assessment form. The couple must sign the resources assessment form attesting, under penalty of perjury, the list is accurate and complete to the best of their knowledge. The signature requirement may be waived for the long-term care spouse if he or his representative says he is unable to sign the resources assessment. A copy of the assessment form must be provided to each spouse when eligibility is determined or when either spouse requests a assessment prior to application. The resource assessment form must tell the couple either spouse has the right to a hearing if he disagrees with the Department's decision of available resources or ownership of resources, or the amount of the CSRA. A person who is not an applicant for Medicaid at the time of the resources assessment may be billed for the cost of an appraisal of his property deemed necessary and ordered by the Department in the assessment process. The purchase of a property appraisal and the decision to bill the person for the cost of a property appraisal purchased in his behalf must be approved, in writing, by the welfare eligibility supervisor. Where a resource assessment has been requested but no application filed, trial resource eligibility for the long-term care spouse must be computed. ~~(1-1-93)~~(7-1-97)T

04. The Community Spouse Resource Allowance (CSRA). The CSRA protects resources for the community spouse. The CSRA is determined by subtracting the greater of the minimum resource allowance, or the spousal share from the assessment, from the couple's total combined resources. The deduction must not be more than the maximum resource allowance. The maximum resource allowance is calculated by applying to sixty thousand dollars (\$60,000), the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. The minimum resource allowance is calculated by applying to twelve thousand dollars (\$12,000), the percentage increase in the consumer

price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. If the result is not an even one hundred dollar amount, round up to the next one hundred dollars. The minimum and maximum resource allowances are revised annually in January. The couple's resources exceeding the CSRA are resources of the long-term care spouse for determining Medicaid eligibility, regardless of which spouse owns the resources. (1-1-95)

05. Revisions of the CSRA. If a fair hearing shows the community spouse's own income, plus income produced by income-producing resources included in the CSRA, is less than the minimum Community Spouse Allowance (CSA), the CSRA may be increased by enough resources, transferred from the long-term care spouse, to raise the community spouse's income to the minimum CSA. The resources to be included in the transfer are presumed to produce income of five percent (5%) yearly, whether or not the resources produce income, or produce five percent (5%). If the transferred resources produce more than five percent (5%) yearly income, the actual income produced is used to determine the amount of resources that can be transferred to the community spouse to increase the CSRA. The long-term care spouse must transfer the resources to the community spouse, or no revision to the CSRA is allowed. If the hearing officer, determines the community spouse is making reasonable use of his current income and resources, to generate adequate income, the hearing officer may waive the five percent (5%) yearly income requirement. In determining reasonable use, the hearing officer may compare the income earned from a resource against current interest earned on conservative investments. If either spouse claims the Department's CSRA is not correct, and the claim is confirmed by a fair hearing decision, the CSRA must be revised. If the original CSRA was based on incorrect information and an incorrect protected resources amount resulted, the CSRA must be recalculated using correct information. Actual income produced by the resources transferred to the community spouse is used to compute the community spouse allowance for patient liability. (7-1-96)

06. The Resource Transfer Allowance (RTA). The resource transfer allowance (RTA) is computed by subtracting the community spouse's resources at the time of application from the CSRA. The RTA is the resources transferred, without penalty, from the long-term care spouse to the community spouse, to bring the community spouse's resources up to the CSRA. The community spouse must own less than the CSRA to get an RTA. The RTA is subtracted from the long-term care spouse resources and added to the community spouse resources to bring the community spouse resources up to the CSRA. If the institutional spouse transfers more than the RTA, the amount of the couple's resources over the CSRA continues to count as the institutional spouse's resources. During the continuous period a long-term care spouse is in an institution, and after the month in which a long-term care spouse is determined Medicaid eligible under FSI, resources of the community spouse, ~~within the CSRA,~~ are not considered available to the long-term care spouse for his resource eligibility. ~~(7-1-96)~~(7-1-97)T

07. The Resource Protected Period for RTA Transfer to Community Spouse. The long-term care spouse has a protected period of sixty (60) days, from the date his application is approved to legally transfer RTA resources. The long-term care spouse must state, in writing, his intent to transfer the resources to the community spouse, within the protected period, before he can be Medicaid eligible. If the long-term care spouse, or his representative, say the long-term care spouse is unable to give his intent in writing, a written statement of his intent signed by his legal guardian or a person with his power of attorney is acceptable. Resources not transferred to the community spouse by the end of the sixty (60) day protected period are counted available to the long-term care spouse, toward the two thousand dollar (\$2,000) resource limit, effective the date of entry into the facility. (1-1-93)

08. Extension for RTA Transfer. The protected period can be extended beyond sixty (60) days if necessary because of the ~~client~~ participant's circumstances. An extension may be granted when more time is needed to obtain guardianship over the long-term care spouse. The reason for allowing an extension must be documented in the case record. Transfer of resources is normally made through a marriage settlement agreement. When transfer must be made through a court, rather than a marriage settlement agreement, either spouse is allowed the length of time necessary to accomplish the transfer through the court. The protected period of eligibility is available immediately following an eligibility decision, and when a long-term care spouse gets additional resources at a later date. Additional resources a long-term care spouse gets during a protected eligibility period are not counted when the new resources, combined with other resources the long-term care spouse intends to retain, do not exceed the two thousand dollar (\$2,000) limit or the community spouse has resources below the CSRA and the long-term care spouse intends to transfer the new resources to the community spouse within a protected period. The intent to transfer must be put in writing before the protected period can be established. ~~(1-1-93)~~(7-1-97)T

09. FSI Resources and Backdated Medicaid. Medicaid eligibility can start three (3) months before the

date of application. FSI resource eligibility is met for any of the three (3) months, if the couple's countable resources, minus the protected resources amount calculated at or for the first continuous period of long-term care beginning on or after September 30, 1989, is less than two thousand dollars (\$2,000). While the application is pending, the long-term care spouse must state his intent, in writing, to transfer the RTA to the community spouse. Where the long-term care spouse or representative says the long-term care spouse is unable to give his intent in writing, a written statement of his intent signed by his legal guardian or a person with his power of attorney is acceptable. (1-1-93)

10. FSI Income Eligibility of Non-HCBS Long-Term Care Spouse. During any month a long-term care spouse is in the institution, no income of the community spouse is counted for Medicaid eligibility of the long-term care spouse. Income of the long-term care spouse must not exceed the financial need standard for his nursing facility care or HCBS living arrangement. The CP method must be used to determine income for Medicaid eligibility for a non-HCBS ~~client~~ participant subject to the FSI method, but not eligible for Medicaid using the FSI method because of income. Under the CP method, each spouse owns one-half (1/2) of the couple's community income plus his own separate income. A ~~client~~ participant eligible under the CP method, must use the FSI method to compute patient liability. ~~(1-1-93)~~(7-1-97)T

11. FSI Income Eligibility of HCBS Long-Term Care Spouse. An HCBS ~~client~~ participant subject to FSI, but not eligible for Medicaid using FSI, because of income or resources, is entitled to use the CP method to determine his income and resources for Medicaid eligibility. A ~~client~~ participant eligible under the CP method, must use the FSI method to determine ~~client~~ participant participation. (See Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 09, Subsection 146.10, "Rules Governing Medical Assistance.") ~~(1-1-93)~~(7-1-97)T

12. FSI and Resource Eligibility for Community Spouse. When the community spouse is a Medicaid ~~client~~ participant, the spouse's resources are counted using Medicaid rules. The FSI rules apply only to the long-term care spouse. For the month the couple stopped living together in their mutual home, resources of the community spouse available for his Medicaid eligibility are the resources owned by the couple. If the resources owned by the couple are less than the AABD couple resource limit, the community spouse is resource eligible for the month the couple stopped living together in their mutual home. ~~(1-1-93)~~(7-1-97)T

13. FSI and Income Eligibility for Community Spouse. When the community spouse is a Medicaid ~~client~~ participant, the spouse's income is counted using Medicaid rules. The FSI rules apply only to the long-term care spouse. The community spouse may choose between the SSI and CP methods for determining income for Medicaid eligibility. ~~(1-1-93)~~(7-1-97)T

14. Change In Circumstances for FSI. The FSI method of calculating income and resources stops the first (1st) full calendar month following a change in circumstances resulting in a couple no longer having a community spouse and a long-term care spouse. (1-1-93)

15. FSI Notice and Fair Hearing. FSI ~~client~~ participants are subject to the regular notice and hearing requirements in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 03, "Rules Governing Contested Cases and Declaratory Rulings." Special notice and fair hearing rules also apply for FSI ~~client~~ participants. When eligibility for Medicaid of the long-term care spouse is determined, or when requested by either spouse or a representative acting on behalf of either spouse, the Department must provide the CSA and family member allowance, the CSRA and how it was computed, and the RTA. The ~~client~~ participant has the right to a fair hearing about counting of income or resources, and the CSA or the RTA. Any hearing requested about the CSRA or the RTA must be held within thirty (30) days of the date of the request for hearing. ~~(1-1-93)~~(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**621. 1972 RSDI RECIPIENT.**

A Medicaid ~~client~~ participant, meeting all other current Medicaid eligibility requirements, remains eligible for Medicaid, if he meets any of the conditions in Subsections 621.01 through 621.03. ~~(1-1-93)~~(7-1-97)T

01. Money Payment in August 1972. The ~~client~~ participant was eligible for, or was receiving, in August



1972, a state money payment of OAA, AB, APTD or ~~AFDC~~ Aid to Families with Dependent Children (AFDC).

(1-1-93)(7-1-97)T

02. Eligible If Not in Institution. The ~~client participant~~ would have been eligible for OAA, AB, APTD or Aid to Families with Dependent Children (AFDC) if he were not in a medical institution or intermediate care facility in August 1972.

(1-1-93)(7-1-97)T

03. Getting RSDI in August 1972. The ~~client participant~~ was receiving RSDI benefits in August 1972. He became ineligible for a state money payment due to the RSDI benefit increase effective in September 1972, and payable in October 1972.

(1-1-93)(7-1-97)T

**622. ~~TITLE XIX FOSTER CHILD. (RESERVED).~~**

~~A foster child residing in a foster home, children's agency, or children's institution approved by the Department, is eligible for Medicaid if meets all of the conditions in Subsections 622.01.a. through 613.01.e.~~

(1-1-93)

~~01. Title XIX Foster Child Eligibility Conditions.~~

(1-1-93)

~~a. The child must be under age twenty-one (21).~~

(1-1-93)

~~b. The child must not get AFDC-FC or SSI.~~

(1-1-93)

~~e. A Department program, other than the Financial and Medical Assistance program, must assume full or partial financial responsibility for the child.~~

(1-1-93)

~~d. The child's countable resources must not exceed the AFDC resource limit of one thousand dollars (\$1,000). Up to five thousand dollars (\$5,000) is excluded if held in trust for the child, in addition to the AFDC resource exclusions.~~

(1-1-93)

~~e. The total income of the child must not exceed two hundred and thirteen dollars (\$213) monthly. After applying the AFDC income exclusions and earned income disregards, an additional income disregard of seventy dollars (\$70) is deducted.~~

(1-1-93)

~~02. Ongoing Title XIX Eligibility. The Title XIX Medicaid eligibility of a foster child must be redetermined at least once every six (6) months. Medicaid eligibility ends if the foster home approval is rescinded. Medicaid eligibility ends if the foster home license expires and an application for license renewal is not on file. Medicaid eligibility ends if the child returns to his own home, even if the Department retains legal custody of the child. Other funding for the child's medical care must be used if Medicaid eligibility ends.~~

(1-1-93)

~~03. Hospitalized Title XIX Foster Child. A child, otherwise eligible for Medicaid as a foster child, placed in a hospital before being placed in foster care, is considered living in an approved foster care situation. The regional team appointed to review hospitalization of foster children must certify, in writing, the plan for the child is to place him in foster care immediately upon discharge from the hospital. The certification must include the estimated date the child will enter foster care.~~

(1-1-93)

**623. SSI RECIPIENT.**

An SSI recipient is eligible for Medicaid if he meets one (1) of the conditions in Subsections 623.01 through 623.03 of these rules. An SSI recipient with a Medicaid Qualifying Trust, created and funded before August 11, 1993, is subject to the Medicaid Qualifying Trust policy in Section 609, for Medicaid eligibility. An SSI recipient is not entitled to Medicaid if he fails to assign his rights to medical support, or fails to cooperate in establishing paternity or securing medical support, as required by Section 606. An SSI recipient is not entitled to Medicaid if he is in an ineligible institution. An SSI recipient is not entitled to Medicaid if he has a trust that makes him ineligible for Medicaid. An "essential person" must not be treated as an SSI recipient, and is not eligible for Medicaid. (7-1-96)

01. Receives SSI. The ~~client participant~~ gets SSI payments, even if eligibility is based on presumptive disability or presumptive blindness. If the Department determines a person getting SSI is not eligible for SSI, SSA must be notified. Medicaid must not be stopped before SSI benefits are stopped by SSA.

(1-1-93)(7-1-97)T

02. Conditionally Eligible. The ~~client~~ participant is determined by SSA to be "conditionally eligible" for SSI, based upon his agreement to dispose of excess resources within a specified time. ~~(1-1-93)(7-1-97)T~~

03. Eligible Spouse. The ~~client~~ participant is determined by SSA to be an "eligible spouse". Even though he is eligible in his own right, his SSI payments are combined with his spouse's SSI payments. ~~(1-1-93)(7-1-97)T~~

04. ~~SSI and Drug Addict or Alcoholic. The client is eligible for SSI, but SSI is suspended for two (2) or more months or stopped after thirty-six (36) months because of drug addiction or alcoholism. The client is not an SSI recipient for Medicaid if SSI stops after twelve (12) months of noncompliance with appropriate substance abuse treatment. (7-1-96)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**633. EXTENDED (POSTPARTUM) MEDICAID FOR PREGNANT WOMEN.**

A woman receiving Medicaid while pregnant continues to be eligible through the last day of the month in which the sixty (60) day post partum period ends. The sixty (60) day post partum period starts the last day of pregnancy. The last day of pregnancy is the day the child is born, the pregnant woman miscarries the fetus, or undergoes an induced abortion. The woman must meet Medicaid eligibility requirements during the sixty (60) day coverage period. Only pregnancy and postpartum services available under Idaho's Medicaid State Plan and those included in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 09, "Rules Governing Medical Assistance" are covered. Timely notice of termination must be mailed ten (10) days before the end of the coverage period, and can be mailed as early as the last day of pregnancy. An ~~ineligible alien~~ illegal non-citizen with a pregnancy-related emergency medical condition is not eligible. Applications for Extended Medicaid made during the month the child is born, but after the child's birthdate, must not be approved for Extended Medicaid. ~~(1-1-93)(8-22-96)T~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**636. ~~INELIGIBLE ALIEN NON-CITIZEN~~ WITH EMERGENCY MEDICAL CONDITION.**

An ineligible ~~legal or illegal noncitizen alien~~ alien is eligible for Medicaid only for medical services necessary to treat an emergency medical condition. He must otherwise be eligible for Medicaid. ~~This coverage group includes lawful temporary or permanent resident and Special Agricultural Worker aliens who are barred from Medicaid for five years, non-immigrant aliens such as students and visitors, and illegal aliens.~~ ~~(1-1-93)(8-2-96)T~~

01. Emergency Medical Condition. Without immediate medical attention, an emergency medical condition could reasonably be expected to result in serious jeopardy to the patient's health, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part. (1-1-93)

02. Medical Determination. The Bureau of Medicaid Policy and Reimbursement must determine if a condition is an emergency condition. The Bureau of Medicaid Policy and Reimbursement must determine if the care and services Medicaid is requested to pay are necessary to treat the emergency medical condition. (1-1-93)

03. Effective Date of Eligibility. Medicaid eligibility under this provision can begin no earlier than the date the ~~ineligible alien~~ client participant experienced the emergency medical condition. Medicaid eligibility must end the date the emergency medical condition stops. The Medicaid beginning and ending dates are determined by the Bureau of Medicaid Policy and Reimbursement. ~~(1-1-93)(8-2-96)T~~

**637. ~~(RESERVED). CERTAIN ALIENS IN LAWFUL TEMPORARY RESIDENT STATUS OR SPECIAL AGRICULTURAL WORKER STATUS.~~**

~~Certain aliens lawfully admitted for temporary residence under Section 245A of the INA or as special agricultural workers under Section 210 of the INA, are entitled to Medicaid. These aliens include children, aged, blind, or disabled persons, and Cubans/ Haitians.~~ (1-1-93)

01. ~~Child. A child under age eighteen (18) who otherwise qualifies for Medicaid.~~ (1-1-93)
02. ~~Aged, Blind or Disabled Individual. An aged, blind, or disabled person is age sixty-five (65) or older, blind, or disabled and qualifies for SSI and/or AABD. The person's alien status does not disqualify him from SSI, AABD or Medicaid.~~ (1-1-93)
03. ~~Cuban/Haitian Entrant. A person with Cuban/Haitian entrant status, who otherwise qualifies for Medicaid.~~ (1-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**645. SPONSORED ~~ALIEN~~ LEGAL NON-CITIZEN.**

Income and resources of ~~an alien's~~ a legal non-citizen's sponsor are not deemed ~~to the alien~~ for Medicaid eligibility ~~unless the sponsor has signed an I-864 affidavit of support. An alien ineligible for AABD grant payments because of deemed income or resources of a sponsor, is eligible for Medicaid. The alien must meet all Medicaid eligibility requirements.~~ (7-1-93)(8-22-96)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**647. (RESERVED) ~~DRUG ADDICT OR ALCOHOLIC.~~**

~~A client not getting SSI because payment is suspended for two (2) or more months, or stopped after thirty-six (36) months for drug addiction or alcoholism, is eligible for Medicaid. Coverage under this section is void at the end of the month in which the client is mailed timely notice that drug addiction or alcoholism does not meet disability criteria.~~ (7-1-96)

**(BREAK IN CONTINUITY OF SECTIONS)**

**706. EXEMPT TRUST.**

A trust, beginning August 11, 1993, is exempt from trust treatment under Section 705 of these rules and does not result in an asset transfer penalty if one (1) of the conditions in Subsections 706.01 through 706.03 of these rules is met. A trust exempt under this Section is not exempt from treatment under Section 707. (1-1-96)

01. Trust for Disabled Person. The trust contains the assets of a person under age sixty-five (65). The trust must be irrevocable. The person must be blind or totally disabled using the definitions of blindness and disability used in determining eligibility for Social Security and SSI benefits, as contained in 20 CFR Part 416. The trust is established for the person's benefit by his parent, grandparent, legal guardian or a court. The amount remaining in the trust after the person's death must be payable to the state of Idaho, up to the amount of Medicaid paid in the person's behalf by the state of Idaho. The trust retains its exclusion when the person reaches age sixty-five (65) if it is not added to or otherwise augmented. Additions or augmentations after the person reaches age sixty-five (65) are not exempt from trust treatment. (7-1-96)(7-1-97)T

02. Trust with Pension Money. The trust is established for the benefit of a person. The person must live in long-term care and be eligible for Medicaid except for excess income or, if not living in long-term care, must be eligible for HCBS Medicaid except for excess income. All the money in the trust comes from the person's pensions, Social Security and his other income. The trust can include income earned by the trust. The trust must be irrevocable. However, the trust document may include a revocability clause that will allow the trust to be revocable only for the circumstance where the ~~client~~ participant leaves the nursing facility or HCBS for a reason other than death, and is no longer eligible for Medicaid because of excess income. An income trust exempted from the asset transfer penalty

under Section 691 of these rules, before July 1, 1994, and not meeting the requirements of Section 691 of these rules, as revised July 1, 1994, must be amended to keep the exemption. The ~~client~~ participant must obtain the necessary amendments within ninety (90) days of the date he was mailed a Department notice that his income trust no longer meets the exemption criteria. A trust is not exempt if it provides for payments for a purpose other than for income used to calculate patient liability or ~~client~~ participant participation, unless the payment meets the conditions for a hardship waiver under Subsection 693.12 of these rules. The amount remaining in the trust after the person's death must be paid to the state of Idaho, up to the amount of Medicaid paid in the person's behalf by the state of Idaho. The trust may be dissolved without penalty when the ~~client~~ participant is no longer a long-term care or HCBS Medicaid ~~client~~ participant for a reason other than death. ~~(7-1-96)~~(7-1-97)T

03. Trust Managed by Nonprofit Association for Disabled Person. The trust must be irrevocable. The trust contains the assets of a disabled person. The person must be blind or totally disabled using the definitions of blindness and disability used in determining eligibility for Social Security or SSI benefits as contained in 20 CFR Part 416. The trust is established and managed by a nonprofit association. The nonprofit association must not be the ~~client~~ participant, his parent or his grandparent. A separate account is maintained for the person. The trust may pool accounts for investment and management purposes. Accounts in the trust are established solely for the benefit of disabled persons by the person's parent, grandparent, or legal guardian, by the person or by a court. To the extent the amount remaining in the trust is not distributed by the trust, the amount remaining in the trust after the person's death must be paid to the state of Idaho, up to the amount of Medicaid paid in the person's behalf by the state of Idaho. ~~(7-1-96)~~(7-1-97)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING MEDICAL ASSISTANCE**  
**DOCKET NO. 16-0309-9707**  
**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective April 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 56-202 and 56-203, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Pursuant to Section 67-5222(2), Idaho Code, public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 1997.

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

**DESCRIPTIVE SUMMARY:** This rulemaking changes all references in the medical assistance rules to the paper identification card which is issued on a monthly basis and contains program eligibility information. With the implementation of the new AIM system, a one time plastic identification card will be issued and the providers will access the client eligibility and program information from the Eligibility Verification System in AIM.

**TEMPORARY RULE JUSTIFICATION:** Temporary rules have been adopted in accordance with Section 67-5226, Idaho Code and are necessary in order to confer a benefit.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary or proposed rule, contact Lloyd Forbes at (208) 334-5795.

Anyone can submit written comments regarding this rule. All written comments and data concerning the rule must be directed to the undersigned and must be postmarked on or before July 23, 1997.

DATED this 2nd day of July, 1997.

STACI WELSH  
Administrative Procedures Coordinator  
DHW - Division of Legal Services  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 334-5548 fax

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**TEXT OF DOCKET NO. 16-0309-9707**

**015. CHOICE OF PROVIDERS.**

01. Service Selection. Each recipient may obtain any services available from any participating institution, agency, pharmacy, or practitioner of his choice, unless enrolled in a coordinated care plan. This, however, does not prohibit the Department from establishing the fees which will be paid to providers for furnishing medical and remedial care available under the MA Program, or from setting standards relating to the qualifications of providers of such care. (6-1-94)

02. Lock-In Option. (7-1-93)
- a. The Department may implement a total or partial lock-in program for any recipient found to be misusing the MA Program according to provisions in Subsection 190.05; but. (12-31-91)
- b. In situations where the recipient has been restricted to a recipient lock-in program, that recipient may choose the physician and pharmacy of his choice. The providers chosen by the lock-in recipient will be identified on the recipient's identification card each month in the Department's Eligibility Verification System (EVS). This information will be available to any Medicaid provider who accesses the EVS. ~~(11-10-81)~~(4-1-97)T
03. Out-of-State Care Provided Outside the State of Idaho. All out-of-state medical care requires preauthorization by the Department or the Department's designated Peer Review Organization (PRO), with the exception of bordering counties and emergency or urgent medical care. (2-15-93)
- a. MA recipients may receive medical care and services from providers located in counties bordering Idaho without preauthorization by the Department. However PRO review may be required pursuant to Subsections 070.04 and 080.02. Approval by the Bureau of Medicaid Policy and Reimbursement, or its successor, is required for all long-term care outside the state of Idaho pursuant to Subsection 015.03.e. (2-15-93)
- b. Emergency/urgent out-of-state care. (2-15-93)
- i. Emergency/urgent inpatient hospital care must be reviewed using the same procedures and guidelines as in-state emergency hospital admissions by the PRO. Transfers from an Idaho hospital to an out-of-state nonadjacent county hospital must be reviewed using the same procedures and guidelines as in-state transfers by the PRO. (7-1-97)
- ii. Emergency/urgent out-of-state outpatient hospital, clinic and/or physician services do not require review by the Department or the Department's approved PRO. The provider must supply sufficient information to support a finding that the care provided was for an emergency/urgent situation. (2-15-93)
- c. The Department or its designee will preauthorize all nonemergency care provided out-of-state for outpatient hospital services, rural health clinics, federally qualified health centers, physician services and physician extender services, dental services, podiatrists services, optometric services, chiropractor services, home health services, physical therapy services, occupational therapy services, speech and audiology services, private duty nursing, clinic services, rehabilitative services, and personal care services. (7-1-97)
- i. A request for out-of-state preauthorization may be initiated by the recipient, the recipient's physician(s), and/or the treating facility. The preauthorization must be obtained prior to the scheduled date of the nonemergency service. Failure to request a timely authorization will result in denial of Medicaid payment for the out-of-state care and any associated transportation costs. (2-15-93)
- ii. There will be no Medicaid payment if the service is determined to be available closer to the recipient's residence or if no preauthorization was obtained prior to the date of the service as required. (7-1-97)
- iii. The only exceptions to the preauthorization requirement are: (2-15-93)
- (a) When eligibility for Medicaid is determined after the service was provided. The service still must be determined to be not available closer to the recipient's residence. (2-15-93)
- (b) Out-of-state nonadjacent county lab and x-ray services when the recipient does not have to travel outside the state for the services to be provided. (2-15-93)
- (c) Mail order pharmacies will not require preauthorization when the recipient is not required to travel outside the state to receive the service. (2-15-93)
- (d) Services for which Medicare is the primary payer of service. (2-15-93)

- d. The Department's designated Peer Review Organization (PRO) will preauthorize all nonemergency inpatient hospital care provided out-of-state in a nonadjacent county. (2-15-93)
- i. A request for out-of-state preauthorization may be initiated by the recipient, the recipient's physician(s), and/or the treating facility. The preauthorization must be obtained prior to the scheduled date of the nonemergency service. Failure to request a timely authorization will result in denial of Medicaid payment for the out-of-state care and any associated transportation costs. (2-15-93)
- ii. There will be no Medicaid payment if the service is determined to be available closer to the recipient's residence or if no preauthorization was obtained prior to the date of the service as required. (7-1-97)
- iii. The treating physician and the admitting facility is responsible for assuring that the Department's designated PRO has preauthorized the out-of-state nonemergency service for inpatient care. (2-15-93)
- iv. No payment for services not preauthorized by the Department's designated PRO may be obtained from the recipient, absent the Medicaid recipient's informed decision to incur the cost of services. (2-15-93)
- v. The only exceptions to the preauthorization requirement are: (2-15-93)
- (a) When eligibility for Medicaid is determined after the service was provided. The service still must be determined not to be available closer to the recipient's residence. (2-15-93)
- (b) Services for which Medicare is the primary payer of service. (2-15-93)
- vi. The PRO review will be governed by provisions of the PRO provider manual as amended. (2-15-93)
- e. Long-term care outside the State may be approved by the Department on an individual basis in temporary or emergency situations. Nursing home care will be limited to the period of time required to safely transport the recipient to an Idaho facility. Out-of-state care will not be approved on a permanent basis. (11-10-81)

**(BREAK IN CONTINUITY OF SECTIONS)**

**050. MEDICAL ASSISTANCE PROCEDURES.**

01. Issuance of Identification Cards. When a person is determined eligible for Medical Assistance pursuant to Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 01, "Rules Governing ~~Eligibility for Aid for Families with Dependent Children (AFDC)~~ Medicaid for Families and Children, and Idaho Department of Health and Welfare Rules, Title 03, Chapter 05, "Rules Governing Eligibility for the Aged, Blind and Disabled (AABD)," ~~the Field Office must prepare and issue to that person a temporary identification card valid only for those dates designated on the card~~ the Department or its designee will issue a Medicaid identification card to the eligible person. When requested, the Field Office must give providers of medical services eligibility information regarding those persons ~~with temporary cards.~~ (12-31-91)(4-1-97)T

02. Identification Card Information. An identification card will be issued ~~monthly after the original issuance~~ to each recipient and will contain the following information: (11-10-81)(4-1-97)T

a. The names of ~~all persons in the household eligible for MA~~ the recipient to whom the card was issued; and (11-10-81)(4-1-97)T

b. ~~Each~~ The recipient's sex, birthdate, and identification number, including ~~the suffix~~ Medicaid identification number; and (11-10-81)(4-1-97)T

- c. ~~The month, day, and year for which the card is valid; and~~ The card number. (11-10-81)(4-1-97)T
- d. ~~For a recipient eligible for dental services, a "D" to so indicate; and~~ (11-10-81)
- e. ~~For a recipient who has another insurance carrier, an asterisk (\*) to so indicate.~~ (11-10-81)
03. Information Available for Recipients. The following information will be available at each Field Office for use by each MA recipient: (11-10-81)
- a. The amount, duration and scope of the available care and services; and (11-10-81)
- b. The manner in which the care and services may be secured; and (11-10-81)
- c. How to use the ~~monthly~~ identification card. (11-10-81)(4-1-97)T
- d. ~~The appropriate billing procedures required by the Department.~~ (11-10-81)
04. Residents of Other States. To the extent possible, the Department is to assist residents from other states in meeting their medical needs while in Idaho, regardless of whether the request for assistance originates from another state's welfare agency, from the person himself, or from a provider of medical care and services. (1-16-80)
05. Review of Records. (11-10-81)
- a. The Department, or its duly authorized agent, the U.S. Department of Health and Human Services, and the Fraud Investigation Bureau have the right to review pertinent records of providers receiving MA payments. (11-10-81)
- b. Thereviewofrecipients'medicalandfinancialrecordsmustbeconductedforthepurposesofdetermining: (11-10-81)
- i. The necessity for the care; or (11-10-81)
- ii. That treatment was rendered in accordance with accepted medical standards of practice; or (11-10-81)
- iii. That charges were not in excess of the provider's usual and customary rates; or (11-10-81)
- iv. That fraudulent or abusive treatment and billing practices are not taking place. (11-10-81)
- c. Refusal of a provider to permit the Department to review MA pertinent records will constitute grounds for: (11-10-81)
- i. Withholding payments to the provider until access to the requested information is granted; or (11-10-81)
- ii. Suspending the provider's number. (11-10-81)

**(BREAK IN CONTINUITY OF SECTIONS)**

**055. GENERAL PAYMENT PROCEDURES.**

01. Hospital or Long Term Care. (11-10-81)
- a. If an MA recipient's attending physician orders hospitalization or long term care services, the



recipient must present his ~~recipient~~ identification card to the admission clerk. The admission clerk will access the Eligibility Verification System (EVS). Where ~~an identification card~~ EVS indicates that a recipient is enrolled in a coordinated care plan, the provider must obtain a referral from the primary care provider. Claims for services provided to recipients designated as participating in coordinated care by other than the primary care provider, without proper referral, will not be paid. ~~(6-1-94)(4-1-97)T~~

b. The hospital or long term care facility must submit claims for care and services provided to the MA recipient on claim forms provided by the Department. (11-10-81)

c. The Central Office must process each claim form received and make payments directly to the hospital or long term care facility. (11-10-81)

d. Long term care facilities must request MA payment of the co-insurance portion of charges for Medicare eligible recipients only after the first twenty (20) days of care. (11-10-81)

02. Other Provided Services. (11-10-81)

a. Each recipient may consult a participating physician or provider of his choice for care and services within the scope of MA by presenting his ~~recipient~~ identification card to the provider, subject to restrictions imposed by a participation in a coordinated care plan. ~~(6-1-94)(4-1-97)T~~

b. The provider must ~~copy~~ obtain the required information ~~from~~ by using the Medicaid number on the identification card ~~from the EVS and transfer the required information~~ onto the appropriate claim form. Where ~~an identification card~~ the EVS indicates that a recipient is enrolled in a coordinated care plan, the provider must obtain a referral from the primary care provider. Claims for services provided to recipient designated as participating in coordinated care by other than the primary care provider without proper referral, will not be paid. ~~(6-1-94)(4-1-97)T~~

c. Upon providing the care and services to the MA recipient, the provider or his agent must complete the other sections of the appropriate claim form, sign the form, and mail the original of the form to the Central Office. (11-10-81)

d. The Central Office is to process each claim form received and make payment directly to the provider. (1-16-80)

e. The Department will not supply the Uniform Billing Form UB-82, Form 1500, and/or American Dental Association (ADA) Attending Dentist's Statement, or their replacements. Claim forms which will be supplied by the Department in order to meet the Department's unique data and billing requirements include Turn Around Documents (TDAs), the State Drug Claim Form, and the Blue Physician Invoice. (3-22-93)

03. Medicare Procedures. If a MA recipient is Medicare eligible, the provider must secure the necessary supporting Medicare documents from the fiscal intermediaries and attach the documents to the appropriate claim form prior to submission to the Central Office. (11-10-81)

04. Services Normally Billed Directly to the Patient. If a hospital provides outpatient diagnostic, radiological, or laboratory services, as ordered by the attending physician, and if it is customary for the hospital to bill patients directly for such services, the hospital must complete the appropriate claim form and submit it to the Bureau. (11-10-81)

**IDAPA 17 - INDUSTRIAL COMMISSION**  
**17.02.03 - RULES GOVERNING SECURITY FOR COMPENSATION**  
**DOCKET NO. 17-0203-9701**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 72-508, 72-324, 72-327, 72-328, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 1997.

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

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

This proposed rule provides the procedure and form on which workers' compensation insurers will report indemnity payments that serve as the basis for an assessment to fund the Industrial Special Indemnity Fund pursuant to Sections 72-327 and 72-328, Idaho Code.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To comply with deadlines in amendments to governing law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Gary W. Stivers, Executive Director, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041; telephone (208)334-6000. Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 25, 1997.

DATED this 21st day of May 1997.

Patricia S. Ramey, Commission Secretary  
Industrial Commission  
317 Main Street  
P. O. Box 83720  
Boise, Idaho 83720-0041  
Telephone: (208)334-6000  
Fax: (208)334-5145

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**TEXT OF DOCKET NO. 17-0203-9701**

**010. DEFINITIONS.**

For the purposes of this chapter, the following definitions are applicable:

(7-1-97)T

01. Indemnity Benefits. All payments made to or on behalf of workers' compensation claimants, including temporary or permanent disability benefits, permanent partial impairment benefits, death benefits paid to

dependents, retraining benefits, and any other type of income benefits, but excluding medical and related benefits.  
(7-1-97)T

02. Indemnity Claim. Any claim that results in the payment of either temporary or permanent disability benefits, permanent partial impairment, death benefits, or retraining benefits.  
(7-1-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**~~271. RULE GOVERNING COMPUTATION OF INDUSTRIAL SPECIAL INDEMNITY FUND LEVY ON STRUCTURED SETTLEMENTS.~~**

~~01. Computing Cash Value. In computing the present cash value of future periodic, annuity or installment payments, for purposes of computing the Industrial Special Indemnity Fund levy prescribed by Section 72-327, Idaho Code, the Commission will use the mortality, annuity and interest tables contained in the appendix to the volume of the Idaho Code currently designated Volume 3. The interest rate to be used by the Commission in computing such value shall be the lesser of either ten percent (10%), or the prime rate, rounded to the closest whole percent, as the same may have been published in the most recent edition of the Wall Street Journal prior to such assessment.~~  
(9-1-88)

~~02. Submitting Evidence of Cost. The employer or its surety shall have ten (10) days from the time of final approval of the settlement to submit to the Commission evidence as to the actual, established cost to it of the future periodic, annuity or installment payments; should such information not be received by the Commission within that period, the assessment shall be computed on the present cash value of such payments in the manner prescribed by Section 271.01 above.~~  
(9-1-88)

**271. RULE GOVERNING REPORTING INDEMNITY PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.**

Pursuant to Section 72-327, Idaho Code, the state insurance fund, every authorized self-insurer, and every surety authorized to transact workers' compensation insurance in Idaho shall report semi-annually to the Industrial Commission the total gross amount of indemnity benefits paid on Idaho workers' compensation claims during the applicable reporting period.  
(7-1-97)T

01. Filing. The report of indemnity payments shall be filed with the Industrial Commission simultaneously with the Semi-Annual Premium Tax Report.  
(7-1-97)T

02. Form. The report of indemnity payments shall be submitted in writing on, or in a format substantially the same as Form IC327, "Report of Indemnity Payments," contained in Appendix C at the end of this chapter.  
(7-1-97)T

03. Report Required When No Indemnity Paid. If an entity required to report under this rule has no claims against which indemnity payments have been made during the reporting period, a report shall be filed so indicating.  
(7-1-97)T

04. Penalty for Late Filing. A penalty shall be assessed by the Commission for filing the report of indemnity payments later than March 3 and July 31 each year.  
(7-1-97)T

a. A penalty of two hundred dollars (\$200) shall be assessed for late filing of seven (7) days or less.  
(7-1-97)T

b. A penalty of one hundred dollars (\$100) per day shall be assessed for late filing of more than seven (7) days.  
(7-1-97)T

c. A penalty assessed by the Commission shall be payable to the Industrial Commission and shall be

submitted with the April 1 or September 1 payment of the industrial special indemnity fund assessment, following notice by the Commission of the penalty assessment. (7-1-97)T

05. Estimating Indemnity Payments for Entities That Fail to Report Timely. If an entity required to report indemnity payments under these rules fails to report within the time allowed in these rules, the Commission will estimate the indemnity payments for that entity by using the indemnity amount reported for the preceding reporting period and adding twenty percent (20%). (7-1-97)T

06. Adjustment for Overpayments or Underpayments. Overpayments or underpayments, including those resulting from estimating the indemnity payments of entities that fail to report timely, will be adjusted on the billing for the subsequent period. (7-1-97)T

**APPENDIX C**

**IC327 REPORT OF INDEMNITY PAYMENTS**  
**EXHIBIT A to SEMI-ANNUAL PREMIUM TAX REPORT**

Reporting Entity Name:

Reporting Period:  January 1 - June 30, \_\_\_\_\_ (Year)  
 July 1 - December 31, \_\_\_\_\_ (Year)

Date of Preparation:

1. Total Claims:
2. Total Number of Indemnity Claims:
3. Payments Made During the Reporting Period on Indemnity Claims:
  - a. Total Amount of All Payments (including Medical):
  - b. Total Amount of All Indemnity Payments:

State of )  
                  ) ss.  
County of )

Certification

I, \_\_\_\_\_, being first duly sworn on oath, state that I have read the foregoing report which sets forth certain information relating to indemnity payments made during the reporting period, that I know the contents, and that I certify the report is true and correct to the best of my knowledge.

\_\_\_\_\_  
Signature of Preparer

\_\_\_\_\_  
Title of Preparer

SUBSCRIBED AND SWORN to before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_  
My term expires: \_\_\_\_\_

(7-1-97)T

**IDAPA 17 - INDUSTRIAL COMMISSION**  
**17.02.03 - RULES GOVERNING SECURITY FOR COMPENSATION**  
**DOCKET NO. 17-0203-9702**  
**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules and proposed rules are effective July 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 72-508, 72-212, 72-213, 72-214, 72-301, 72-304, and 72-311, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 18, 1997.

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

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

This rule provides a procedure and format for reporting proof of coverage information electronically to the Industrial Commission. It also allows workers' compensation insurers to report coverage information to a third party designated by the Commission rather than to both the Commission and a rating bureau as they are currently required to do. The rule updates the form on which workers' compensation insurers report their outstanding workers' compensation liabilities, making them easier to track, and makes a number of ministerial amendments to improve the consistency and clarity of the existing language of the rules.

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

This rule confers a benefit for workers' compensation insurers

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the Commission's on-line filing capability will be in place by July 1, 1997, and the Commission has received a request from one of the largest workers' compensation insurers to file proof of coverage information in an electronic format by July 1, 1997.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Christi Simon, Supervisor, Employer Compliance Section, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041, telephone (208)334-6000.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 25, 1997.

DATED this 21st day of May 1997.

Patricia S. Ramey, Commission Secretary  
Industrial Commission  
317 Main Street  
P. O. Box 83720  
Boise, Idaho 83720-0041  
Telephone: (208)334-6000  
Fax: (208)334-5145

TEXT OF DOCKET NO. 17-0203-9702

012. REGULATIONS RULES GOVERNING INSURANCE COMPANIES.

Upon receiving An insurance company must apply for and receive the approval of the Industrial Commission to write workers' compensation insurance under pursuant to Section 72-301, Idaho Code, ~~to continue~~ After receiving such approval, an insurance company shall comply with the following: (7-15-88)(7-1-97)T

01. Maintain Statutory Security Deposits With the State Treasurer. (7-1-97)T

a. Each insurance company shall maintain with the Idaho State Treasurer security in the amount of twenty-five thousand dollars (\$25,000) if approved by the commission prior to ~~the effective date of this rule July 15, 1988,~~ or two hundred and fifty thousand dollars (\$250,000) if approved subsequently to that date; ~~however, if the carrier insurance company~~ has made a qualifying deposit of twenty-five thousand dollars (\$25,000) under the provisions of Section 41-317, Idaho Code, that amount shall be deemed contributory to the total required security. (7-1-97)T

b. In addition ~~thereto to the security required in Subsection 012.01.a., above, such carrier is required to each insurance company shall~~ deposit an amount equal to the total unpaid outstanding awards of said ~~carrier insurance company.~~ Such security deposit shall be in the form of cash, U. S. obligations, Idaho municipal bonds, or a surety bond in the form ~~attached hereto marked Appendix I set forth in IDAPA 17.02.03.011.02.f.~~ If a surety bond is deposited, the surety company shall be completely independent of the principal and authorized to transact such business in the state of Idaho. (7-15-88)(7-1-97)T

c. Securities which are ~~used~~ maintained to satisfy the requirements of this rule may be held in the federal reserve book-entry system, as defined in Section 41-2870(4), Idaho Code, and interests in such securities may be transferred by bookkeeping entry in the federal reserve book-entry system without physical delivery of certificates representing such securities. (7-15-88)(7-1-97)T

02. Appoint Agent for Service of Process. Each insurance company shall ~~Appoint~~ the Director of the Department of Insurance as its attorney to receive service of legal process. (7-15-88)(7-1-97)T

03. Maintain Resident Idaho Office. Each insurance company shall ~~Maintain~~ an Idaho licensed adjuster or adjusters resident in Idaho who have been appointed and have been given authority ~~on~~ as to claims arising under the Act. Each insurance company shall notify the Commission in writing of any change of designated resident adjuster(s) within fifteen (15) days of such change. (7-15-88)(7-1-97)T

04. Supply Forms and Make Reports. Each insurance company shall ~~Supply~~ such forms as are or may be prescribed by the Commission pursuant to the Workers' Compensation Law and distribute them to ~~such all~~ employers as it ~~may~~ insures. A list of required forms is available from the public information section of the Industrial Commission, P. O. Box 83720, Boise, Idaho 83720, telephone (208)334-6000. ~~Report to the Commission on IC Form 50, 50-A, 51, 51-A, and 52, which forms are set forth herein issuance or cancellation of or endorsements to an employer's workers' compensation policy within thirty (30) days of the transaction. File with the Commission IC Form 36, which form is set forth herein, once every three months or more often as may be directed by the Commission. Make such reports to the Commission as it may require in reference to matters under the Workmen's Compensation Law.~~ (7-15-88)(7-1-97)T

**IC Form 50:**

STATE OF IDAHO -- NOTICE OF ISSUANCE

DBA: \_\_\_\_\_ Policy No. \_\_\_\_\_  
Insured: \_\_\_\_\_ Eff. Date \_\_\_\_\_  
Idaho Location: \_\_\_\_\_ Iss. Office \_\_\_\_\_

Address

City State Zip Phone

Type of Business: \_\_\_\_\_

Former Owner: \_\_\_\_\_

~~The undersigned hereby notifies the Industrial Commission of Idaho that it has issued the above described workers' compensation policy.~~

~~THIS NOTICE IS CONTINUOUS UNTIL CANCELLED~~

~~(Name of insurance company)~~

~~By: \_\_\_\_\_  
Authorized Representative~~

**IC Form 50-A:**

~~STATE OF IDAHO -- NOTICE OF ISSUANCE~~

~~Policy No. \_\_\_\_\_~~

~~DBA: \_\_\_\_\_~~

~~Eff. Date~~

~~Insured: \_\_\_\_\_~~

~~Iss. Office~~

~~Idaho Location: \_\_\_\_\_~~

~~Address~~

~~City State ZipPhone~~

~~Type of Business: \_\_\_\_\_~~

~~Former Owner: \_\_\_\_\_~~

~~THE Industrial Commission of Idaho hereby acknowledges receipt of notice of coverage for the above named employer.~~

~~Industrial Commission~~

~~By: \_\_\_\_\_~~

~~Samples of IC 50, 50-A, 51, 51-A and 52 are available from the Employer Compliance Section of the Industrial Commission, 317 Main Street, P. O. Box 83720, Boise, Idaho 83720-0041, telephone (208) 334-6000.~~

~~These forms are required to be professionally printed on perforated card stock in specific colors and sizes for filing with the Industrial Commission.~~

**IC Form 36:**

**INSTRUCTIONS**

~~Every FATAL, PERMANENT TOTAL AND PERMANENT PARTIAL case on which compensation is being paid by your company must be entered on this form and carried forward on subsequent reports until paid out. New cases will~~



be entered as they are determined and carried forward on the next report. (Be sure to disregard all Total Temporary cases.) File report by 10th of month.

~~COLUMN 1. DATE OF INJURY.~~

~~COLUMN 2. NAME OF INJURED EMPLOYEE.~~

~~COLUMN 3. CLASS OF DISABILITY.  
Enter in this column the kind of case; i.e., FATAL, PERMANENT TOTAL, or PERMANENT PARTIAL. (Use abbreviation.)~~

~~COLUMN 4. TOTAL AWARDS.  
Include total compensation and other expenses as shown on the approved Summary of Payments and/or reserves established for Permanent Totals.~~

~~COLUMN 5. COMPENSATION THIS REPORT.  
Enter the amount paid on each case since the last report was filed.~~

~~COLUMN 6. TOTAL COMPENSATION PAID.  
Enter the total amount paid on the award, including amount shown in Column 6.~~

~~COLUMN 7. ADJUSTMENT.  
Make all adjustments for changes of conditions, remarriage, deaths, errors, etc. in this column. If adjustments are made, then Column 4 must equal Column 6 plus Column 7 plus column 8.~~

~~COLUMN 8. UNPAID BALANCE.  
This will show the balance due on each case.~~

~~THIS FORM MUST BE COMPLETED AND EXECUTED DIRECTLY BY THE SURETY OR SELF-INSURED EMPLOYER.~~

~~MAIL TO: INDUSTRIAL COMMISSION  
P. O. BOX 83720  
BOISE, ID 83720-0041~~

The following is essentially the format required by the Industrial Commission for reporting outstanding awards. Due to the printing limitations of the publisher of these rules, the columns are not separated by lines. However, when the surety or self-insured employer has this form typeset by a professional printer, the columns should be separated by vertical lines and appropriately formatted for ease in reading. A sample of the appropriate form is available from the Fiscal Section of the Industrial Commission, 317 Main Street, P. O. Box 83720, Boise, Idaho 83720-0041, telephone (208) 334-6000.

~~INDUSTRIAL COMMISSION  
STATE OF IDAHO~~

~~OUTSTANDING AWARDS  
(Including Permanent Total)~~

~~Period Ending \_\_\_\_\_, 19\_\_~~

~~FATAL, PERMANENT PARTIAL AND PERMANENT TOTAL~~

<del>Date of Injury</del>	<del>Name of Injured</del>	<del>Kind of Injury</del>	<del>Total Award</del>	<del>Comp this Report</del>	<del>Total Comp Pd</del>	<del>Adjustment</del>	<del>Unpd Bal</del>
<del>Total</del>							

VERIFICATION

State of \_\_\_\_\_ ) ss.  
County of \_\_\_\_\_ )

I, \_\_\_\_\_, being first duly sworn on  
oath, state that I am the \_\_\_\_\_ of  
(Officer)

\_\_\_\_\_, and that I  
(Surety or Self-Insured Employer)

have read the foregoing statement of Outstanding Awards and  
know the contents thereof, and the same are true to my best  
knowledge and belief.

(Reporting Carrier) \_\_\_\_\_

By \_\_\_\_\_  
(Officer of the Corporation)

Address \_\_\_\_\_

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_  
Residing at \_\_\_\_\_

05. Comply with Industrial Commission Reporting Requirements. Each insurance company shall file such reports as the Industrial Commission may require concerning matters under the Workers' Compensation Law.

(7-1-97)T

06. Report Proof of Coverage.

(7-1-97)T

a. Each insurance company shall report proof of coverage information to a third party designated by the Industrial Commission as its agent to receive, process, and forward the proof of coverage information required by these rules to the Commission. The name and address of the Commission's designated agent(s) is available upon request from the Employer Compliance Section of the Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041; telephone (208)334-6000.

(7-1-97)T

b. As an alternative to Subsection 012.06.a. above, an insurance company may be allowed to report proof of coverage information directly to the Industrial Commission in an electronic format prescribed by the Commission by first making a written request to the Commission and obtaining the Commission's permission. A formal written agreement with the Commission is required prior to the electronic transmission of proof of coverage data to the Commission.

(7-1-97)T

c. The Industrial Commission hereby adopts the International Association of Industrial Accident Boards and Commissions' (IAIABC) electronic proof of coverage record layout and transaction standards as the required reporting mechanism for new policies, renewal policies, endorsements, cancellations, and non-renewals of policies. A copy of the record layout and transaction standards is available upon request from the Employer Compliance Section, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041; telephone (208)334-6000.

(7-1-97)T

d. The most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining the insurance company providing coverage. (7-1-97)T

07. Report New Policy, Renewal Policy, and Endorsement Information Within Thirty (30) Days. Each insurance company shall report the issuance of any new workers' compensation policy, renewal policy, or endorsement to the Industrial Commission or its designated agent within thirty (30) days of the effective date of the transaction. (7-1-97)T

08. Report Cancellation and Non-Renewal of Policy Within Time Prescribed by Statute. Each insurance company shall report the cancellation and/or nonrenewal of any workers' compensation insurance policy to the Industrial Commission or its designated agent within the time frames prescribed by Section 72-311, Idaho Code. (7-1-97)T

09. Report Election of Coverage on Form IC52 or Similar Format. Each insurance company shall report election of coverage or revocation of election of coverage on or in a format substantially the same as Form IC52, "Election of Coverage," which follows this chapter as Appendix A. This report shall be submitted to the Industrial Commission in writing on eight-and-one-half by eleven-inch (8 1/2 x 11) paper. (7-1-97)T

10. Report Outstanding Liabilities. Each insurance company shall report to the Industrial Commission at the end of each calendar quarter, or more often as required by the Commission, any outstanding liability for fatal, permanent partial impairment, permanent total disability, or litigated workers' compensation claims. (7-1-97)T

a. The report of outstanding awards shall be filed with the Industrial Commission by the tenth (10th) day of the month following the end of each calendar quarter. (7-1-97)T

b. The report shall be filed even if there are no outstanding claims and shall indicate the fact that there are no outstanding awards to be reported. (7-1-97)T

c. The report shall be submitted on or in a format that is substantially the same as Form IC36, "Report of Outstanding Awards for Fatal, Permanent Partial Impairment, Litigated and Permanent Total Disability Claims," which follows this chapter as Appendix B. The report may be produced as a computerized spreadsheet or database printout and shall be submitted to the Commission in writing on paper no larger than eight and one-half inches by fourteen inches (8 1/2 x 14) in size. (7-1-97)T

d. The report shall be signed by a corporate officer. If an insurance company has designated more than one adjuster for workers' compensation claims in Idaho, a corporate officer of the insurance company shall prepare and file a consolidated report of outstanding awards. (7-1-97)T

e. The report shall list every outstanding fatal, permanent partial impairment, and total permanent disability claim, commencing with the calendar quarter during which reserves are set or benefits are first paid, whichever occurs earlier. (7-1-97)T

f. The report shall list every litigated claim, commencing with the calendar quarter during which the complaint (application for hearing) was filed. (7-1-97)T

g. The report shall continue to list every outstanding award successively until the outstanding award is paid in full or is otherwise disposed of. (7-1-97)T

h. The report shall designate the type of claim in Column 5 using the abbreviations "F" for fatal, "PPI" for permanent partial impairment, "L" for litigated, or "PT" for permanent total disability. (7-1-97)T

i. The report shall specify the indemnity reserves for dependents on all fatal claims. (7-1-97)T

j. The report shall identify separately the permanent impairment reserves and the future medical reserves on all permanent partial impairment claims. (7-1-97)T

k. The report shall identify separately the total medical reserves and the indemnity reserves on litigated claims and on permanent total disability claims. (7-1-97)T

l. The report shall indicate in Column 6 the total compensation and other expenses, as well as reserves set for litigated and permanent total disability claims. Column 6 will equal the amounts indicated in Columns 8, 9, and 10. (7-1-97)T

m. The report shall indicate in Column 7 the amount of any compensation paid during the reporting period. (7-1-97)T

n. The report shall indicate in Column 8 the total amount of compensation paid during the life of the claim. (7-1-97)T

o. The report shall indicate in Column 9 adjustments due to clerical error or status changes such as remarriage, death, or disposition of litigated cases. (7-1-97)T

p. The report shall indicate in Column 10 the unpaid balance in each claim. (7-1-97)T

~~0511.~~ Comply with Law and Rules. Each insurance company shall ~~Comply~~ with the statutes of the State of Idaho and the rules of the Industrial Commission to ~~the end~~ ensure that payments of compensation shall be sure and certain and not unnecessarily delayed. (~~7-15-88~~) (7-1-97)T

**APPENDIX A**

**IC52 - ELECTION OF COVERAGE**

The undersigned hereby notifies the Industrial Commission of the following:

(Check the Appropriate Box)

Election

Revocation of Election

- Household domestic service.
- Casual employment.
- Employment of outworkers.
- Employment of members of an employer's family dwelling in his household. (applies only to sole-proprietorships)
- Employment which is not carried on by the employer for the sake of pecuniary gain.
- Employment of a sole proprietorship.
- Employment of a working member of a partnership or a limited liability company. (Circle either partnership or limited liability company; if the election applies only to certain partners/members, name the covered partners/members.)
- Employment of an officer of a corporation who at all times during the period involved owns not less than ten percent (10%) of all of the issued and outstanding voting stock of the corporation and, if the corporation has directors, is also a director thereof. (If the election applies only to certain corporate officers, name the covered officers.)
- Employment for which a rule of liability for injury, occupational disease, or death is provided by the laws of the United States.
- Pilots of agricultural spraying or dusting planes.
- Associate real estate brokers and real estate salesmen paid solely by commission.
- Volunteer ski patrollers.
- Officials of athletic contests involving secondary schools.

\_\_\_\_\_  
(Name of Insurance Company)

Policy Number \_\_\_\_\_

Effective Date \_\_\_\_\_

\_\_\_\_\_  
(Signature of authorized representative)

\_\_\_\_\_  
(Employer's signature)

(7-1-97)T

**APPENDIX B**

**IC36 - REPORT OF OUTSTANDING AWARDS FOR FATAL, PERMANENT PARTIAL  
 IMPAIRMENT, LITIGATED AND PERMANENT TOTAL DISABILITY CLAIMS**

(Name of Insurer or Self-Insured Employer) _____									
Year: _____									
For Calendar Quarter Ending: <input type="checkbox"/> March <input type="checkbox"/> September <input type="checkbox"/> June <input type="checkbox"/> December									
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Date of Injury	Claimant Name (as shown on First Report of Injury)	SSN	IC Claim Number	Type of Claim	Total Awards/Reserves	Compensation This Report	Total Compensation Paid	Adjustment	Unpaid Balance
<b>TOTALS</b>									

**Send Original to: Fiscal Section, Industrial Commission, P. O. Box 83720, Boise, Idaho 83720-0041**

\_\_\_\_\_  
 Corporate Officer  
 Date: \_\_\_\_\_

Name and Title of Preparer: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Page \_\_\_\_ of \_\_\_\_

**IDAPA 17 - INDUSTRIAL COMMISSION**  
**17.10.01 - SAFETY AND HEALTH RULES FOR PLACES OF PUBLIC EMPLOYMENT**  
**DOCKET NO.17-1001-9701**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section(s) 72-508, and 72-720, 721, 722, and 723, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 1997.

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

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

The Industrial Commission, in cooperation with the Division of Building Safety, proposes adoption of rules to replace IDAPA 17.04.01, General Safety and Health Standards Code 1, which has been repealed in its entirety effective July 1, 1997. IDAPA 17, Title 10, Chapters 1-30, proposed for adoption in 1996 were rejected by the 1997 legislature in SCR 112. IDAPA 17, Title 10, Chapter 01, is proposed for adoption under Docket 17-1001-9701 which immediately follows this notice.

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

Protection of the public health, safety, or welfare.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rule-making was not conducted because the rules originated in a committee of safety experts from the public and private sectors who spent more than a year revising the 1983 general safety code and developing updated standards and guidelines for public employers to use in providing a safe and healthful workplace for public employees. Senate rejection of the proposed rules in their entirety rendered further negotiated rulemaking unfeasible.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Mike Poulin, Division of Building Safety, (208) 334-3950. Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 1, 1997.

DATED this 21st day of April 1997.

Patricia S. Ramey, Commission Secretary  
Industrial Commission  
317 Main Street  
P. O. Box 83720  
Boise, Idaho 83720-0041

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**TEXT OF DOCKET NO. 17-1001-9701**

**IDAPA 17**  
**TITLE 10**  
**Chapter 01**

**17.10.01 - SAFETY AND HEALTH RULES FOR PLACES OF PUBLIC EMPLOYMENT**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to the authority granted the Industrial Commission by Sections 72-508, 72-720, 72-721, 72-722, and 72-723, Idaho Code. (7-1-97)T

**001. TITLE AND SCOPE.**

01. Title. These rules shall be cited as IDAPA 17, Title 10, Chapter 1, Safety and Health Rules for Places of Public Employment. (7-1-97)T

02. Scope. These rules shall be applicable to places of public employment as defined in Sections 72-205 and 72-207, Idaho Code. (7-1-97)T

**002. WRITTEN INTERPRETATIONS.**

There are no written statements which pertain to the interpretation of these rules. (7-1-97)T

**003. ADMINISTRATIVE APPEALS.**

There are no provisions for administrative appeal of these rules. The procedures for appeals in industrial safety matters are prescribed by Sections 72-222 and 72-714 through 72-718, Idaho Code. (7-1-97)T

**004. REQUIREMENTS.**

01. Safe Workplace. Every employer shall furnish a place of employment free from recognized hazards which may cause serious injury or death to employees. Recognized hazards are those identified by state adopted and nationally recognized codes and standards. (7-1-97)T

02. Safety Devices. Every employer shall furnish and use safety devices and safeguards and shall adopt and use practices, means, methods, operations, and processes which are adequate to render the place of employment safe and free of occupational health hazards. (7-1-97)T

03. Posted Warnings. Every employer shall post warning signs in areas where employees are exposed to injury hazards and shall insure that employees comply with the posted warnings. (7-1-97)T

04. Training and Equipment. No employer shall require an employee to go or be in any place of employment which is unsafe unless that employee has the appropriate training, is properly equipped, and is authorized to go or be in such place. (7-1-97)T

05. Minimum Construction Standards. No employer, owner, or lessee of any real property shall construct or cause to be constructed any place of employment which does not meet the minimum safety requirements of state adopted and nationally recognized codes and standards. (7-1-97)T

06. Training. (7-1-97)T

a. It shall be the responsibility of the employer to establish and ensure a safe and healthful working environment, to establish an accident-prevention program and training program to improve the skill and competency of all employees in the area of safety and occupational health. (7-1-97)T

b. Such training shall include on-the-job instruction in the safe use of powered materials-handling equipment, machine tool operations, use of hazardous/toxic materials, and operation of utility systems prior to assignment to jobs involving such exposures. (7-1-97)T



**005. EXTENSION OF TIME.**

01. Extensions. An extension of time may be granted by the enforcing agency upon good cause shown. (7-1-97)T
02. Sixty (60) Day Limit. An extension of time to comply with the safety and health requirements of these rules and any amendments that may be added from time to time may be granted up to sixty (60) days. (7-1-97)T
03. Limit and Revocation. Such extension of time shall be limited to the particular case or cases covered in the letter of extension and may be revoked for cause. (7-1-97)T
04. Requests. All requests for extension of time shall be made in writing to the Administrator of the Division of Building Safety, P. O. Box 83720, Boise, Idaho 83720-0049. (7-1-97)T

**006. SAFETY STANDARDS.**

01. Joint Publication. The Idaho Industrial Commission and the Idaho Division of Building Safety, together with safety experts from the public and private sector, have developed and published general safety guidelines for places of public employment. (7-1-97)T
02. Compilation of Standards. These guidelines have been compiled with the purpose of providing employers a resource that consolidates all pertinent safety and occupational health standards into one resource book. These guidelines shall be referred to as the Idaho General Safety and Health Standards (IGSHS). A copy may be obtained from the Division of Building Safety, Industrial Safety Section, P. O. Box 83720, Boise, Idaho 83720-0049, telephone (208) 334-3950. (7-1-97)T

**007. ADMINISTRATION.**

01. Annual Inspections. All safety inspections of places of public employment carried out pursuant to these rules shall be done according to the general guidelines set forth in the Idaho General Safety and Health Standards by personnel of the Division of Building Safety, Industrial Safety Section, on an annual basis. (7-1-97)T
02. Employer Responses. An employer shall respond within twenty (20) days of receipt of any inspection report containing findings. The response shall be made to the Division of Building Safety, Industrial Safety Section, P. O. Box 83720, Boise, Idaho 83720-0049. (7-1-97)T

**008. -- 999. (RESERVED).**

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**24.01.01 - RULES GOVERNING THE BOARD OF ARCHITECTURAL EXAMINERS**  
**DOCKET NO. 24-0101-9701**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective February 21, 1997.

**AUTHORITY:** In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Section 54-312, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 1997.

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

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rule-making: Eliminates language scheduling board meetings to coincide with national examination; eliminates reference to fees which no longer apply; establishes new deadline for filing of examination applications; incorporates new titles for examination divisions and provides clarification regarding transferring of credit for previously passed sections; and incorporates interpretation of law regarding direct supervision.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rules are appropriate for the following reasons: Necessary to implement administration of the computer-assisted national examination.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Dee Ann Randall at (208) 334-3233.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be postmarked or delivered on or before July 23, 1997.

DATED this 20th day of May, 1997.

Dee Ann Randall  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**TEXT OF DOCKET NO. 24-0101-9701**

**150. PROCEDURES AND DUTIES (Rule 150).**

01. Meetings. The Board shall meet at least four times annually at such times and places as designated by the Board or the Chairman of the Board. ~~A meeting shall be held at least thirty (30) days prior to the first day of each scheduled examination, and a meeting shall be held within ninety (90) days following the last day of each scheduled examination.~~ Special meetings shall may be held at the call of the Chairman, and all members shall be notified in writing, thereof. (7-1-93)(2-21-97)T

02. Voting. A quorum shall be four Board members. A majority vote of Board members present shall be considered the action of the Board as a whole. Any motion before the Board shall fail on a tie vote. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. FEES (Rule 200).**

Fees for Examinations and Licensure. (7-1-93)

01. Fees For Examination. Examination fees will be as established by the National Council of Architectural Registration Boards (NCARB). (7-1-97)

a. Processing Fee. Applicants for licensing by examination must submit a twenty-five dollar (\$25) processing fee, ~~together with the examination fees.~~ (7-1-97)(2-21-97)T

b. ~~Request to have answer sheet handscored - Ten dollars (\$10).~~ (7-1-93)

e. ~~Proctor Fee - non Idaho applicant - Fifty dollars (\$50).~~ (7-1-93)

02. Annual Renewal Fee. Annual renewal fee - Seventy-five dollars (\$75). (7-1-93)

03. Endorsement Fee. Endorsement Fee - One hundred fifty dollars (\$150). (7-1-93)

04. Reinstatement Fees. Reinstatement fees are as provided in Section 67-2614, Idaho Code. ~~The Bureau shall not renew expired licenses without the written approval of the license holder involved.~~ (7-1-93)(2-21-97)T

05. Refund of Fees. No refund of fees shall be made to any person who has paid such fees for application for examination, or reexamination, licensure, or reinstatement of license. (7-1-93)(2-21-97)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. APPLICATION (Rule 300).**

01. Licensure by Examination. (7-1-93)

a. Application for examination or reexamination shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Executive Secretary of the Board. (7-1-93)

b. Applicants shall secure and furnish all information required by the uniform application form and shall include the following: (7-1-93)

i. Certified transcript of all subjects and grades received for all college courses taken. (7-1-93)

ii. If graduated from a college or university, furnish certification of graduation and a certified transcript of all work completed. (7-1-93)

iii. Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. (7-1-93)

iv. A recent two inch by three inch (2" x 3") photograph taken within the previous year for

identification purposes. (7-1-93)

v. In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited. (7-1-93)

c. Application shall not be presented to the Board or evaluated by the Board until all required information is furnished and the required fee is paid. (7-1-93)

d. ~~All To be considered by the Board, properly completed applications for consideration or evaluation by the Board shall~~ must be received by the Executive Secretary at least ~~forty-five~~ thirty (30) days prior to the first day of ~~examination period at which time the applicant is to be examined~~ the month in which the Board will meet.  
(7-1-93)(2-21-97)T

e. Qualifications of Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess the minimum qualifications required by the current NCARB Circular of Information #1, Appendix "A" where such Circular of Information does not conflict with Idaho law. After June 1, 1993, all applicants for the ARE must have completed the Intern Development Program (IDP) requirements. (7-1-97)

02. Licensure by Endorsement - Blue Cover. (7-1-97)

a. General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. (7-1-97)

b. Seismic knowledge requirements for endorsement applicants. Each applicant for license under endorsement to practice architecture in the state of Idaho shall submit evidence of his skill and knowledge in seismic design and such evidence shall be submitted and signed by the applicants acknowledged before a notary public, and shall contain one of the following statements: (7-1-97)

i. "I have passed the examinations in Building Construction and Structural Design of the Western Conference of State Architectural Registration Boards in June 1963 or since and/or the NCARB in 1965 or since." (7-1-97)

ii. "I am registered in the State of \_\_\_\_\_ in 19\_\_\_\_, where competence in seismic was a requirement for registration since 19\_\_\_\_." (7-1-93)

iii. Certification of the successful completion of the seismic seminar approved by the National Conference of Architectural Registration Boards. (7-1-93)

c. All applicants shall attach to their statement a certification from the State architectural registration agency of the cited state attesting the adequacy of the cited seismic examination. (7-1-93)

03. Licensure By Endorsement - Equivalency. (7-1-97)

a. Application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Executive Secretary of the Board. (7-1-97)

b. Applicant shall comply with all requirements set forth in Rules 300.01, 300.02.b.i., 300.02.b.ii., 300.02.b.iii. and 300.02.c. (7-1-97)

c. Applicant shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. (7-1-97)

d. Applicant shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**350. REGISTRATION EXAMINATION (Rule 350).**

The Board, having found that the content and methodology of the ARE prepared by NCARB is the most practicable and effective examination to test an applicant's qualifications for registration, adopts the ARE as the single, written and/or electronic examination for registration of architects in this state, and further adopts the following rules with respect thereto: (7-1-97)

01. When Taken. The Board will ~~administer~~cause the ARE, prepared by NCARB, to be administered to all applicants eligible, in accordance with the requirements of the Board, by their training and education to be examined for registration on dates scheduled by the NCARB. The Board shall ~~administer~~cause repeat divisions of the ARE to be administered to qualified candidates on such dates as are scheduled by the NCARB. (~~7-1-97~~)(2-21-97)T

02. Content. The ARE comprises nine divisions as follows: (7-1-93)

a. Division A - ~~Pre-Design~~ PRE-DESIGN. (~~7-1-93~~)(2-21-97)T

b. Division B - ~~Site Design~~ SITE PLANNING. (~~7-1-93~~)(2-21-97)T

i. Candidates who have not passed both Division B Written and Graphic prior to computerized ARE will need to take Site Planning. (2-21-97)T

c. Division C - ~~Building Design~~ BUILDING PLANNING and BUILDING TECHNOLOGY. (2-21-97)T

i. Candidates who have not passed Division C prior to computerized ARE need to take both Building Planning and Building Technology. (2-21-97)T

d. Division D/E - ~~Structural-General~~ GENERAL STRUCTURES. (~~7-1-93~~)(2-21-97)T

e. Division E - ~~Structural-Lateral Forces~~ LATERAL FORCES. (~~7-1-93~~)(2-21-97)T

f. ~~Division F - Structural-Long Span.~~ (7-1-93)

g. ~~Division G-Mechanical/Plumbing/Electrical and Life Safety Systems~~ MECHANICAL AND ELECTRICAL. (~~7-1-93~~)(2-21-97)T

h. Division H - ~~Materials and Methods~~ MATERIALS AND METHODS. (~~7-1-93~~)(2-21-97)T

i. Division I - ~~Construction Documents and Services~~ CONSTRUCTION DOCUMENTS AND SERVICES. (~~7-1-93~~)(2-21-97)T

03. Grading. The ARE shall be graded in accordance with the methods and procedures recommended by the NCARB. To achieve a passing grade on the ARE, an applicant must receive a passing grade in each division. Grades from the individual division may not be averaged. Applicants will have unlimited opportunities to retake division which they fail. The Board shall accept passing grades of computer administered divisions of the ARE as satisfying the requirements for said division(s) when such examinations are administered as prescribed by the NCARB regardless of the date of the examination or location in which the examination took place. (7-1-93)

04. Transfer Credits. Except as indicated at Subsection 350.02, above, Applicants who had passed portions of the previous registration examinations (Professional Examination - Section A, Professional Examination - Section B, and Qualifying Test) will receive the transfer credits set forth below and need only take those divisions of

ARE for which no transfer credit has been received. To be eligible for transfer credits for any portion of the Professional Examination - Section B, the applicant must have passed three parts of that examination in one sitting, in or after December, 1980.

NOTE: Since the history and theory of architecture is incorporated into all divisions of the ARE, no credit will be given for having passed the Qualifying Test - Section A, History. ~~(7-1-93)~~(2-21-97)T

- a. For previous examinations passed credits go to the following ARE divisions: (7-1-93)
  - i. Professional Examination - Section B, Parts I and II -- Division A. (7-1-93)
  - ii. Professional Examination - Section A, (Design/Site) -- Divisions B and C. (7-1-93)
  - iii. Professional Examination - Section B, Part III -- Divisions D, E, F, G, and H. (7-1-93)
  - iv. Qualifying Test - Section B -- Divisions D, E and F. (7-1-93)
  - v. Qualifying Test - Section D -- Division G. (7-1-93)
  - vi. Qualifying Test - Section C -- Division H. (7-1-93)
  - vii. Professional Examination - Section B, Part IV -- Division I. (7-1-93)
- b. Applicants without an accredited professional degree in architecture must, in all cases, pass Divisions D, E, F, G and H of the ARE if they have not passed equivalent portions of the Qualifying Test: even though the applicant may have passed the professional Examination - Section B, Part III. (7-1-93)
- c. Applicants without an accredited professional degree in architecture must in all cases, pass Division A of the ARE if they have not passed Section A of the Qualifying Test: even though the applicant may have passed the Professional Examination - Section B, Parts I and II. (7-1-93)

**351. MISCELLANEOUS REQUIREMENTS FOR EXAMINATION (Rule 351).**

~~01. Administering Parts of the ARE. The Board may administer parts of the ARE to qualified applicants who have passed parts of the ARE in other states or jurisdictions. Such parts of the examination not passed will be administered upon approval of properly completed application and other required information and payment of required fees. (7-1-93)~~

02~~1~~. Personal Interviews. Personal interviews may be administered at the option of the Board. (7-1-93)

~~03. Locations of Examinations. Examinations shall be administered at the locations designated by the Board prior to each examination period. (7-1-93)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**550. INTERPRETATIONS (Rule 550).**

The following interpretation of Laws relating to Architecture in Idaho Code are hereby made by the Board. (7-1-93)

01. Reference to Building. Under Section 54-309, reference to any building wherein the safeguarding of life, health, and property is concerned means any building which public or private sector of population may use or any building into which the public or private sector of the population is invited either as spectators, visitor, student, guest, or employee, or any building where the private or public sector of the population conducts business. (7-1-93)

02. Administration of Construction Contracts. Under Section 54-309, paragraph 1-c, "Practice of

Architecture," Section 54-305, paragraph 1-f, Grounds for Discipline, the words "Administration of Construction Contracts", in accordance with current knowledge and usage in the profession means "Administration of the Contract" as defined in the current edition of the General Conditions of the Contract for Construction (AIA Document A201) as published by the American Institute of Architects. (7-1-93)

03. Professional Standards. Under Section 54-305, an architect shall be completely objective and truthful in all professional reports, statements, or testimony and shall include therein all relevant and pertinent information known to him. (7-1-93)

04. Direct Supervision. Direct supervision is that degree of supervision by a licensed architect overseeing the work of another whereby the architect has both control over, and detailed professional knowledge of, the work prepared under his or her supervision. The primary contract or agreement for the project must be between the architect of record and the entity for which architectural services are provided, not between the person being supervised and the entity for which the services are provided. (2-21-97)T

**IDAPA 43 - IDAHO CANOLA AND RAPESEED COMMISSION**  
**43.01.01 - RULES GOVERNING THE IDAHO CANOLA AND RAPESEED COMMISSION**  
**DOCKET NO. 43-0101-9701**

**NOTICE OF TEMPORARY AND PROPOSED RULES**

**EFFECTIVE DATE:** These temporary rules are effective July 1, 1997.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rule-making procedures have been initiated. The action is authorized pursuant to Sections 67-5206(1) and 22-4710(3)(I), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 1997.

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

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

To set procedures for levying and collection assessments and the procedure for potential refunds.

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

To promulgate rules for the operation of the Idaho Canola and Rapeseed Commission to conform to the new statutory requirements.

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

No fees are imposed by these rules except late payment fees allowed by Section 22-4716, Idaho Code, which is 12 per cent per annum.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rules, contact Doug Scoville at (208) 858-2132.

Anyone may submit written comments regarding this temporary and proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before July 23, 1997.

DATED this 15th day of May, 1997.

Kevin D. Satterlee, Deputy Attorney General  
Office of the Attorney General  
Statehouse, Room 114  
P. O. Box 83720  
Boise, Idaho 83720-0010  
(208) 322-3081  
(208) 334-3107 (FAX)

---

**TEXT OF DOCKET NO. 43-0101-9701**



**IDAPA 43**  
**TITLE 01**  
**Chapter 01**

**IDAPA 43 - IDAHO CANOLA AND RAPESEED COMMISSION**

**43.01.01 - RULES GOVERNING THE IDAHO CANOLA  
AND RAPESEED COMMISSION**

**000. LEGAL AUTHORITY.**

In accordance with Title 67, Chapter 52, Idaho Code, Sections 67-5206(1) and 22-4710(3)(i), the Idaho Canola and Rapeseed Commission (hereinafter "Commission") promulgate these rules implementing the provisions of Title 22, Chapter 47, Idaho Code, Sections 22-4701, et seq. (7-1-97)T

**001. TITLE AND SCOPE.**

These Rules shall be cited as IDAPA 43.01.01, Rules Governing the Idaho Canola and Rapeseed Commission, IDAPA 43, Title 01, Chapter 01. (7-1-97)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Title 67, Chapter 52, Idaho Code, Section 67-5201(19)(b)(iv), the Commission may issue written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. (7-1-97)T

**003. ADMINISTRATIVE APPEALS.**

The Idaho Administrative Procedure Act (Title 67, Chapter 52, Idaho Code, Sections 67-5201, et seq.) and the Idaho Attorney General's Idaho Rules of Administrative Procedure (IDAPA 04.11.01.001, et seq.) shall govern all contested cases involving the Commission. (7-1-97)T

**004. COMMISSION OFFICE.**

The office of the Commission shall be located at such physical location and mailing address as prescribed by the Commission. (7-1-97)T

**005. -- 009. (RESERVED).**

**010. FIRST PURCHASER RULES.**

01. Designated Quarters. In accordance with Title 22, Chapter 47, Idaho Code, Section 22-4716, the Commission shall designate the quarters (three (3) month periods) for the purpose of collecting the tax imposed by such statute as follows: (7-1-97)T

a. The Commission's first quarter will begin on the first (1st) day of July and end the thirtieth (30th) day of September. The first quarter tax shall be due on or before the fifteenth (15th) day of October. (7-1-97)T

b. The Commission's second quarter will begin on the first (1st) day of October and end the thirty-first (31st) day of December. The second quarter tax shall be due on or before the fifteenth (15th) day of January. (7-1-97)T

c. The Commission's third quarter will begin on the first (1st) day of January and end the thirty-first (31st) day of March. The third quarter tax shall be due on or before the fifteenth (15th) day of April. (7-1-97)T

d. The Commission's fourth quarter will begin on the first (1st) day of April and end the thirtieth (30th) day of June. The fourth quarter tax shall be due on or before the fifteenth (15th) day of July. (7-1-97)T

02. Canola and Rapeseed Tax Invoice (Form Number 1). Pursuant to Title 22, Chapter 47, Idaho Code, Section 22-4719, the first purchaser of canola or rapeseed shall be required to complete and send the Canola and Rapeseed Tax Invoice (Form Number 1) to the Commission office each and every quarter on or before the dates

specified in these rules. The Canola and Rapeseed Tax Invoice (Form Number 1) shall be on official forms as prescribed by the Commission and shall be provided to the first purchaser by the Commission. The Canola and Rapeseed Tax Invoice (Form Number 1) shall, at a minimum, require the following legible information: (7-1-97)T

- a. The date of purchases and tax reporting period. (7-1-97)T
- b. The name and address of the canola and rapeseed seller and purchaser. (7-1-97)T
- c. The net weight of the canola and rapeseed sold in pounds or hundredweights. (7-1-97)T
- d. The total amount of tax deducted from Idaho canola and rapeseed producers by the purchaser. (7-1-97)T
- e. The total amount of tax due the Commission. (7-1-97)T

03. Late Payment Penalty (As specified in Title 22, Chapter 47, Idaho Code, Section 22-4716(4)). Any person or firm who makes payment to the Commission at a date later than prescribed by law, shall be subject to a late payment penalty of twelve percent (12%) per annum on the amount due. (7-1-97)T

**011. -- 499. (RESERVED).**

**500. REFUND APPLICATIONS.**

In accordance with Title 22, Chapter 47, Idaho Code, Section 22-4717, any seller may request from the Commission in writing, within thirty (30) days after payment thereof, a refund of all or any portion of an assessment levied on canola and rapeseed and paid by such seller. Sellers requesting a canola and rapeseed assessment refund, as specified in Title 22, Chapter 47, Idaho Code, Section 22-4717, shall be required to complete and return a refund application form (Form Number 2) to the Commission office no later than thirty (30) days after payment of the assessment. Refund application Form Number 2 will be available through the Commission office. Written requests for refund application forms must be sent to the Commission office. (7-1-97)T

01. Refund Application Form Number 2. The refund application Form Number 2 shall, at a minimum, require the following information from the applicant: (7-1-97)T

- a. The applicant's name and address. (7-1-97)T
- b. The applicant's federal tax identification number. (7-1-97)T
- c. The first purchaser or lender who deducted the assessment from the applicant's settlement. (7-1-97)T
- d. The applicant's date of settlement. (7-1-97)T
- e. The hundredweight of canola and rapeseed sold by the applicant. (7-1-97)T
- f. The dollar amount of canola and rapeseed assessment deducted from the applicant's settlement. (7-1-97)T

g. The applicant shall enclose evidence with the application proving the canola and rapeseed assessment was deducted by providing a copy of the invoice (Form Number 1) for which the refund is claimed. In the absence of a copy of the invoice, the Commission may, but is not required to, accept other satisfactory evidence of payment. (7-1-97)T

**501. -- 999. (RESERVED).**

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