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**IDAPA 16
TITLE 02
Chapter 09**

16.02.09 - RULES GOVERNING CREMATORIES IN IDAHO

000. (RESERVED).

001. LEGAL AUTHORITY.

The Idaho State Board of Health and Welfare, pursuant to the authority granted in Sections 54-1119, 39-107 and 27-303, Idaho Code, hereby adopts rules and regulations relating to crematories. (12-31-91)

002. TITLE AND SCOPE.

These rules are to be cited in full as Idaho Department of Health and Welfare Rules, Title 02, Chapter 09, "Rules Governing Crematories in Idaho." These rules govern the licensing of crematories in Idaho and specify minimum standards for their operation and record-keeping and reporting requirements. (12-31-91)

003. DEFINITIONS.

01. Board. Idaho State Board of Health and Welfare. (12-31-91)

02. Department. Idaho Department of Health and Welfare. (12-31-91)

03. Embalmed. The disinfecting, preparing or preserving for final disposition of dead human bodies in whole or in part, by the use or application of chemical substances, fluids or gases on the body, or by the introduction of the same into the body by vascular or hypodermic injection or by direct introduction into organs or cavities, or by any other method or process. (1-10-86)

004. -- 099. (RESERVED).

100. APPLICATION FOR LICENSE TO OPERATE A CREMATORY.

01. Contents of Application. Each applicant for a license to operate a crematory in Idaho shall supply to the Idaho State Registrar of Vital Statistics the following information: (1-10-86)

a. Name and address of corporation or firm; and (9-3-58)

b. Number of retorts or cremation vaults; and (9-3-58)

c. Signature of applicant; and (9-3-58)

d. Date of signature. (9-3-58)

02. Forms Issued by Department. The required "Application for License to Operate a Crematory" (HWH-0159) will be issued in blank and be made available to applicants by the Board through the State Registrar of Vital Statistics. (12-31-91)

03. Equipment Listing, Drawing Approval and Air Quality Standards. As a part of the initial application for licensure, the applicant must submit the following to the State Registrar of Vital Statistics: (1-10-86)

a. Detailed information regarding the retort specifically documenting that the retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code; (1-10-86)

b. One (1) set of blueprints for the proposed new construction or remodeling where the retort is to be located. The blueprints must be approved by the local building department as being in compliance with applicable building codes and ordinances; and (1-10-86)

c. A copy of the permit issued by the Division of Environmental Quality, Department of Health and

Welfare, indicating compliance with air quality standards. (12-31-91)

101. -- 199. (RESERVED).

200. MINIMUM STANDARDS.

01. Reasonable Sanitation and Safety Required. In the interest of the protection of the public welfare, no license will be issued on an application to operate a crematory unless it is apparent that the crematory can, and will, be operated in a reasonably sanitary and safe manner, free from substantial annoyance to the public. (6-23-80)

02. Reduction of Ashes. No crematory will be licensed or operated unless it is efficiently capable of reducing dead human bodies to ashes containing not more than five per cent (5%) of the weight of the body immediately after death. (6-23-80)

03. Delay Before Cremation. No dead human body, regardless of cause of death, is to be cremated, nor is actual cremation of such a body to be commenced, unless the county coroner in the county in which the death occurred gives his written authorization to cremate the body. (6-23-80)

04. Embalming. If a dead human body is to be held by the crematory longer than twenty-four (24) hours prior to cremation, the body must be either embalmed or refrigerated at thirty six degrees (36F) or less until cremated. No body can be held longer than fourteen (14) days after death prior to cremation unless there is a written request from the next-of-kin for holding the body longer than fourteen (14) days or a court order requiring the body to be held longer than fourteen (14) days. (12-31-91)

05. Casket Not Necessary. It is not necessary for the body to be in a casket for cremation to take place. (1-3-78)

a. This is not to be construed to mean that the crematory must cremate without a casket; and (6-23-80)

b. It will not prevent the operators from developing their own internal requirements for aesthetic or sanitary reasons. (6-23-80)

201. -- 299. (RESERVED).

300. RECEIPT FOR BODIES TO BE CREMATED.

The following must be performed by the operator of a crematory upon receipt of a human body for cremation: (6-23-80)

01. Provide a Receipt. A receipt must be delivered to the funeral director, his agent, or another person who delivers such body to the crematory. (6-23-80)

02. Contents of Receipt. The receipt must show: (6-23-80)

a. The name of the decedent whose body was received; and (9-3-58)

b. The date on which that body was received; and (9-3-58)

c. The place where that body was received; and (9-3-58)

d. The name and address of the funeral director from whom that body was received; and (9-3-58)

e. The name and address of the person, or the names and addresses of the persons, if more than one (1), who actually deliver the body. (9-3-58)

301. -- 399. (RESERVED).

400. RECORDS OF CREMATION OF BODIES.

01. Content of Record. Each crematory must maintain a record of each cremation of human remains, disclosing: (6-23-80)
- a. The name of the decedent whose body was cremated; and (9-3-58)
 - b. The name and address of the person, or names and addresses of the persons, if more than one (1), authorizing the cremation of that body as received by the crematory or its representative; and (9-3-58)
 - c. The date upon which that body was received by the crematory; and (9-3-58)
 - d. The place where that body was received; and (9-3-58)
 - e. A statement as to whether or not the body was embalmed; and (1-10-86)
 - f. The date of the cremation of that body; and (9-3-58)
 - g. The subsequent disposal of the cremated remains of that body by the crematory. (9-3-58)
02. Responsibility for Record. Such record must be made as soon as reasonably possible after the cremation and must be dated and signed by the owner and operator of the crematory and by the licensed mortician who supervised or was otherwise directly responsible for the cremation. (1-10-86)
03. Inspection by Department. Such records must be open for inspection at any reasonable time by the Board or other authorized officers or employees of the state of Idaho and political subdivisions thereof. (12-31-91)

401. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, Title 05, Chapter 03, Subsections 000, et seq., "Rules Governing Contested Cases and Declaratory Rulings." (12-31-91)

997. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department in connection with licensure activities or records of cremations must comply with Idaho Department of Health and Welfare Rules, Title 05, Chapter 01, "Rules Governing the Protection and Disclosure of Department Records." (6-23-80)

998. INCLUSIVE GENDER.

For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (1-3-78)

999. SEVERABILITY.

Idaho Department of Health and Welfare Rules, Title 02, Chapter 09, 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 the chapter. (1-3-78)