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**IDAPA 16
TITLE 02
CHAPTER 13**

16.02.13 - RULES GOVERNING CERTIFICATION OF IDAHO WATER QUALITY LABORATORIES

000. LEGAL AUTHORITY.

Title 39, Chapter 1, Idaho Code, Sections 39-101, 39-102, 56-1001, and 56-1003, Idaho Code, as adopted by the Idaho State Legislature. (7-1-93)

001. TITLE.

These rules are to be cited as Idaho Department of Health and Welfare Rules, IDAPA 16.02.13, "Rules Governing Certification of Idaho Water Quality Laboratories". (12-31-91)

002. DECLARATION OF PURPOSE.

The purpose of these rules is to provide a procedure by which the Department of Health and Welfare may certify that Water Quality Laboratories are capable of performing in an acceptable manner, microbiological, chemical, physical and radiochemical analyses of water samples from public water supplies and wastewater treatment plants. Since owners of public water supplies and wastewater treatment plants are required through various state and federal programs to monitor the quality of water in their systems, it is of value to those owners to have available laboratories which produce data recognized as valid by the enforcement agencies. These rules establish standards of operation for those laboratories which request such recognition. (11-1-77)

003. INCORPORATION BY REFERENCE.

Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of the Code of Federal Regulations (CFR), Title 40, and the Federal Register, shall constitute the full adoption by reference of that subsection or section, including any notes and appendices if applicable, unless expressly provided for otherwise in these rules. (12-4-92)

01. Location Of Documents. Copies of the documents incorporated by reference throughout these rules are available in the following locations: (12-4-92)

a. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or telephone (202) 783-3238; and (12-4-92)

b. Administrative Procedure Section, Idaho Department of Health and Welfare Central Office, 450 W. State Street, Boise, Idaho 83720, or telephone (208) 334-5559. (12-4-92)

02. Incorporated Documents. Those documents incorporated by reference throughout these rules are: (12-4-92)

a. 40 CFR 141.21, 40 CFR 141.22, 40 CFR 141.23, 40 CFR 141.24, 40 CFR 141.25, 40 CFR 141.30, 40 CFR 141.40, 40 CFR 141.41, 40 CFR 141.42, 40 CFR 141.74, and 57 Federal Register, No. 10, January 15, 1992, pp. 1850 through 1852. (12-4-92)

b. 40 CFR 141.24(g)(11), 40 CFR 141.24(g)(15), and 40 CFR 141.40(h). (12-4-92)

004. DEFINITIONS.

01. Water Quality Laboratory. A facility which examines water for the purpose of identifying or measuring microbiological, chemical, physical, or radiochemical parameters. (11-1-77)

02. Certified Water Quality Laboratory. A Water Quality Laboratory which is formally recognized by the Department as meeting the criteria set forth by these rules. (11-1-77)

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

04. Department. The Idaho Department of Health and Welfare. (11-1-77)

05. Director. The Director of the Department of Health and Welfare or his designated representative.

(12-31-91)

06. State. The state of Idaho. (12-31-91)

07. Person. Any human being, any municipality, or other governmental or political subdivision or public agency, any public or private corporation, any partnership, firm, association, or other organization, or any legal entity. (11-1-77)

08. Water Quality Laboratory Supervisor. A person who directs the day-to-day activities of a Water Quality Laboratory and is responsible for assuring the quality of laboratory results. (11-1-77)

09. Analyst. A person responsible for performing tests and reporting analytical results. (11-1-77)

10. Laboratory Quality Assurance. Routine analysis of standard reference samples and other materials to insure reproducibility of laboratory results, the development of an acceptable system to assure the proper functioning of instruments, equipment and reagents, and an evaluation of a laboratory's ability to perform laboratory procedures within acceptable limits of accuracy through analysis of unknown specimens distributed at periodic intervals. (11-1-77)

11. Reviewer. An employee or other designated representative of the Department who is knowledgeable and experienced in Water Quality Laboratory methods and procedures and who meets or exceeds the minimum requirements for Water Quality Laboratory Supervisor as defined in this chapter. (12-31-91)

005. ADVISORY COMMITTEE.

The Director is authorized to appoint a Certified Water Quality Laboratory Advisory Committee, consisting of five (5) members, to serve in an advisory capacity to the Department in connection with the application of these rules and regulations to Water Quality Laboratories which have requested or have been granted certification. (12-31-91)

01. Members Of Advisory Committee. The Advisory Committee will consist of one (1) representative from a commercial laboratory, one (1) representative from a municipal laboratory, one (1) representative from the Department, one (1) representative from an institution of higher learning within the state, and one (1) person representing the public at large. (12-31-91)

02. Ex-Officio Membership Of Bureau Chief. The Chief of the Bureau of Laboratories of the Department will serve as an ex-officio member of the advisory committee and will represent the Director at committee meetings. (5-20-87)

03. Duties And Responsibilities. The duties and responsibilities of this Advisory Committee must include the review of appropriate Certified Water Quality Laboratory performance data, review of qualifications of Certified Water Quality Laboratory personnel, the development of recommendations as outlined in Section 011 and other duties as determined by the Director. (12-31-91)

006. APPLICATION FOR CERTIFICATION.

To have a Water Quality Laboratory certified, an application for certification must be submitted to the Department on a form so provided, and must include, but not be limited to the following information: Name and location of the Water Quality Laboratory; name of the Water Quality Laboratory owner; a listing of the tests for which certification is desired; the name, education, experience, and training of the Water Quality Laboratory supervisor; the name, education, experience and training of all laboratory analysts; the approximate number of tests by category performed annually by the laboratory. (11-1-77)

007. CERTIFICATION.

The Department must publish at least annually a list of Water Quality Laboratory tests for which Water Quality Laboratories may seek certification. Water Quality Laboratories may request certification for performance of one (1) or more of the tests listed. The Department must certify Water Quality Laboratories for performance of all tests which are in compliance with minimum standards specified in these rules and regulations. All Certified Water Quality Laboratories must pay an annual certification fee of fifty dollars (\$50) plus ten dollars (\$10) for each specific test for which certification is requested. (12-31-91)

008. ON-SITE EVALUATION.

Qualified reviewers may perform on-site evaluations of the premises and operations of laboratories which have made application for certification for the purpose of determining the adequacy of the quality assurance program, qualifications of personnel, adequacy of equipment, and the adequacy of the supervision of each Water Quality Laboratory. (11-1-77)

009. GENERAL REQUIREMENTS FOR CERTIFICATION.

01. Space Requirements. Each Certified Water Quality Laboratory must have adequate space, facilities, and equipment to perform the services offered with accuracy, precision and safety as determined by the Department. (11-1-77)

02. Use Of Approved Procedures. All Certified Water Quality Laboratories must use analytical procedures approved by the Director/Analysis must be conducted by U.S. Environmental Protection Agency methods in accordance with the analytical requirements set forth in Subsection 003.02.a. (12-4-92)

03. Collection And Preservation Procedures. Water samples tested by Certified Water Quality Laboratories must be collected and preserved in accordance with procedures described in the latest edition of "Standard Methods," published by the American Public Health Association, or the "United States Geological Survey Laboratory Methods" or "Methods," published by the American Society for Testing Materials, or the "EPA Manual of Methods for Chemical Analysis of Water and Wastes". Supervisors of Certified Water Quality Laboratories must be responsible for making appropriate comments on laboratory report forms if they have reason to believe that the samples which were submitted for testing were not suitable for the analysis requested. (11-1-77)

04. Reporting Of Laboratory Results. Water Quality Laboratory reports must be made in accordance with a format specified by the Department. Records of analytical results must be signed by the laboratory supervisor or the qualified person assigning the tasks to other analysts. Internal laboratory records must identify the person actually performing the analyses, and these records will be available to the Department. (11-1-77)

05. Distribution Of Reports Of Laboratory Tests. The Water Quality Laboratory supervisor is responsible for submission of results of all tests performed on public drinking water samples to the appropriate state and local public health authorities at the same time the report is sent to the owner of the water system. The Water Quality Laboratory supervisor will also be responsible for an immediate telephone report to the appropriate state or local public health authority in the case of a positive result on a bacteriological water quality test. (3-20-87)

06. Tests To Be Performed By Qualified Analysts. The Water Quality Laboratory supervisor must make certain that all tests are performed by qualified analysts. (11-1-77)

07. Supervisors Limited To Two Laboratories. No Water Quality Laboratory supervisor will be responsible for the supervision of more than two (2) Certified Water Quality Laboratories unless specifically approved by the Department. (11-1-77)

08. Maintenance Of Laboratory Records. Each Certified Water Quality Laboratory must maintain a suitable record of each laboratory test result for a period of at least seven (7) years. All records must be maintained in a manner which permits ready identification and accessibility. Certified Water Quality Laboratory records and reports must identify samples referred to other Certified Water Quality Laboratories, and must identify the Certified Water Quality Laboratory performing the test. (11-1-77)

010. PERSONNEL QUALIFICATION.

01. Water Quality Laboratory Supervisor. (7-1-93)

a. The supervisor of a Certified Water Quality Laboratory performing chemical analyses on water samples must, as a minimum, have a bachelor's degree in chemistry or a bachelor's degree in a closely related science with a minimum of sixteen (16) semester hours of chemistry course work and a minimum of two (2) years' experience in the performance of chemical tests routinely performed by the Laboratory. (11-1-77)

b. The supervisor of a Certified Water Quality Laboratory performing microbiological analyses on water samples must, as a minimum, have a bachelor's degree in microbiology or a bachelor's degree in a closely related science with a minimum of sixteen (16) semester hours of microbiology course work and, in addition, a minimum of two (2) years' experience in the performance of microbiological tests routinely performed by the Laboratory. (11-1-77)

02. Analysts - Chemical Tests. Analysts responsible for performance of routine chemical measurements other than organic chemicals must have a minimum of a high school diploma or its equivalent, and at least three (3) months of on-the-job training in the measurement of inorganic constituents in water samples. (11-1-77)

03. Analysts - Organic Chemistry (Pesticide Tests). Analysts responsible for performance of routine tests for organic chemicals must have a minimum of a high school diploma or its equivalent and a minimum of at least six (6) months' experience in the measurement of chlorinated hydrocarbons and chlorophenoxys and two (2) years' experience in the field of gas chromatography. (11-1-77)

04. Analysts - Microbiology Tests. Analysts responsible for performance of microbiological measurements must have a minimum of a high school diploma or its equivalent and at least three (3) months of on-the-job training in the performance of microbiological tests routinely performed by the Laboratory. (11-1-77)

05. Exceptions. (11-1-77)

a. At the time these rules become effective, a person who has served as a supervisor of a Water Quality Laboratory for not less than two (2) years in the last five (5) years prior to the effective date, and who does not meet the educational requirements defined above, may be qualified in that position on recommendation of the Advisory Committee. The Advisory Committee will review the qualifications of such person(s) and the Director may waive the educational requirements on recommendation of the Advisory Committee. (11-1-77)

b. At the time these rules become effective, a person who has served as an organic chemistry (pesticide) analyst in a Water Quality Laboratory for not less than one (1) year prior to the effective date and does not meet the requirements defined above, may be qualified in that position on recommendation of the Advisory Committee. (11-1-77)

c. Registration by nationally recognized certifying boards may be accepted by the Director in lieu of the bachelor's degree on recommendation of the Advisory Committee. (11-1-77)

011. LABORATORY QUALITY ASSURANCE.

01. Program To Be Compatible With Standards. Each Certified Water Quality Laboratory must establish a quality assurance program compatible with standards developed by the U.S. Environmental Protection Agency. (11-1-77)

02. Criteria For Acceptable Program. An acceptable quality assurance program must include the following: (11-1-77)

a. An effective preventive maintenance program which insures proper functioning of all instruments and equipment. Regular operational checks and calibrations to assure proper operation and standardization of equipment, instruments and reagents. (11-1-77)

b. Routine testing of standard reference samples and/or other quality control materials and quality control checks on reagents and media utilized in the performance of tests. (11-1-77)

c. The testing of unknown performance evaluation samples at such frequency as is deemed necessary to evaluate the performance of any Certified Water Quality Laboratory. (11-1-77)

d. Maintenance of quality control records which will enable determination of reliability of all procedures performed; these records to be kept on file and readily available for a period of seven (7) years. (11-1-77)

- e. Performance of a minimum of twenty (20) bacteriological tests per month. (5-20-87)
- f. Analysis of organic chemicals other than total trihalomethanes must meet the requirements as set forth in Subsection 003.02.b. (12-4-92)

03. Performance Evaluation Program. All Certified Water Quality Laboratories must subscribe to and satisfactorily participate in a performance evaluation program administered by or approved by the Department. (11-1-77)

04. Reporting Performance Evaluation Results. The supervisor of a Certified Water Quality Laboratory must report results obtained on unknown performance evaluation samples to the Chief of the Bureau of Laboratories, Idaho Department of Health and Welfare, within thirty (30) days of receipt of specimens. (11-1-77)

012. EVALUATION PROCEDURE.

01. Documentation Of Corrective Action. If a Certified Water Quality Laboratory is found to be in noncompliance with these rules, the Laboratory will be required to submit documentation of corrective action to the Director. (12-31-91)

02. Adequacy Of Corrective Action. On receipt of documentation of corrective action, a reviewer will determine the adequacy of the action taken. If the corrective action is not adequate, the Laboratory may be required to test a supplemental set of unknown performance evaluation samples and/or submit to an on-site inspection. (11-1-77)

03. Referral To Advisory Committee. If the results of the on-site inspection and/or the results obtained through testing of unknown samples are unacceptable, the matter will be referred to the Advisory Committee for its recommendations. (11-1-77)

04. Continued Certification Of Other Tests. The Certified Water Quality Laboratory will continue to be certified for performance of all tests for which it has demonstrated satisfactory performance through testing of unknown specimens and through compliance with this chapter. (12-31-91)

05. Notification About Discrepancies. The Department must advise owners and supervisors of all Certified Water Quality Laboratories as to any discrepancies which might lead to revocation of certification. (11-1-77)

013. DENIAL OR REVOCATION OF CERTIFICATION.

Certification may be denied or revoked for one (1) or more tests for the following reasons: (11-1-77)

01. Failure On Performance Evaluation. The Certified Water Quality Laboratory fails to participate satisfactorily in an approved performance evaluation program as outlined in Section 010. (12-31-91)

02. Failure To Implement Quality Assurance Program. The Certified Water Quality Laboratory fails to implement a quality assurance program as outlined in Section 010. (12-31-91)

03. Failure To Staff Laboratory Properly. The Department determines that the Certified Water Quality Laboratory has failed to staff the Laboratory with qualified personnel, or has failed to equip the Laboratory adequately. (11-1-77)

04. Failure To Comply With The General Requirements. The Certified Water Quality Laboratory fails to comply with the general requirements of Section 008. (12-31-91)

05. Misrepresentation Of Certification Status. The Certified Water Quality Laboratory has misrepresented its certification status. (11-1-77)

014. RENEWAL OF CERTIFICATION FOR PERFORMANCE OF TESTS FOR WHICH CERTIFICATION HAS BEEN REVOKED.

01. Recertification Procedure. A Certified Water Quality Laboratory which has lost certification for performance of certain tests for reasons outlined in Section 012 may gain recertification by documenting corrective action taken and by requesting a review of the unacceptable performance and the corrective action taken. Within ten (10) days after completion of this review, the reviewer must submit his report to the Director. Upon determination that corrections leading to satisfactory and acceptable compliance with this chapter have been made, the Director may reinstate approval, subject to continued compliance with this chapter. (12-31-91)

02. Written Notice Of Deficiencies. If the Director does not grant recertification of the Certified Water Quality Laboratory, he will provide the laboratory supervisor with written notice of actions to be taken to correct deficiencies. The Certified Water Quality Laboratory supervisor may request a new review at any time after thirty (30) days from the date of the last review or in lieu of a new review, the Certified Water Quality Laboratory owner and/or supervisor may request a hearing as provided in Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Section 000, et seq., "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (12-31-91)

015. ADMINISTRATIVE ACTIONS.

Water Quality Laboratory certification issued pursuant to this chapter may be denied, suspended, revoked or not renewed, by notice in writing by the Director, served upon the applicant or person responsible for the operation of a Certified Water Quality Laboratory by registered or certified mail setting forth the reasons therefor if, upon investigation, it is found that said person has failed or refused to comply with any of these rules. (IDAPA 16.05.03, Sections 100 through 299, "Rules Governing Contested Cases Proceedings and Declaratory Rulings".) If no request for hearing is made within the time specified, the certification must be deemed denied, suspended or revoked. If the agency finds that the public health, safety or welfare imperatively requires emergency action and incorporates the findings to that effect in its notice of denial, suspension or revocation, summary suspension of the approval may be ordered and a notice of hearing for revocation or other action will be issued within ten (10) days. (12-31-91)

016. LIST OF CERTIFIED WATER QUALITY LABORATORIES.

The Department will publish annually a list of Water Quality Laboratories which have been certified in accordance with this chapter. This list will include the names and addresses of the laboratories, the names of the owners of the laboratories, the names of the persons supervising the laboratories; and the tests for which each laboratory is certified. The annual list of Certified Water Quality Laboratories must be sent to all Certified Water Quality Laboratories. A copy of the list of Certified Water Quality Laboratories must be supplied on request. (12-31-91)

017. PENALTY FOR MISREPRESENTATION OF LABORATORY CERTIFICATION STATUS.

Any person who misrepresents the certification status of a Water Quality Laboratory will be in violation of this chapter. Violation of these rules will constitute a misdemeanor pursuant to Section 56-1008, Idaho Code. (12-31-91)

018. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000, et seq., "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (12-31-91)

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 16.05.01, "Use and Disclosure of Department Records". (12-31-91)

998. INCLUSIVE GENDER.

For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (12-31-91)

999. SEVERABILITY.

If any clause, sentence, paragraph, section or part of these rules will be adjudged by any court of competent jurisdiction to be invalid, the judgement will be confined to its application to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgment may have been rendered. (12-31-91)

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