Thank you for submitting your health agency’s documentation to the Accreditation Library. We appreciate your contribution to this resource, and we look forward to continuing to provide you with assistance in your accreditation work.

Cover Sheet for Example Documentation

Please complete the following form and submit along with your documentation. If you have any questions, please email us at accreditation@astho.org.

The following documentation has been submitted to ASTHO for the Accreditation Library as a potential example of Health Department documentation that might meet the PHAB Domain 6 Standard 6.3 Measure 6.3.1A.

This document is not intended to be a template, but is a reference as state health agencies develop and select accreditation documentation specific to the health department’s activities.

Please note that the inclusion of documentation in this library does not indicate official approval or acceptance by PHAB.

<table>
<thead>
<tr>
<th>Document Title:</th>
<th>Idaho Statute defining enforcement authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Document Date:</td>
<td>7/21/2016</td>
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</table>

Version of Standards and Measures Used: 1.5

<table>
<thead>
<tr>
<th>Domain:</th>
<th>Standard:</th>
<th>Measure:</th>
<th>Required Documentation:</th>
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<tbody>
<tr>
<td>6</td>
<td>6.3</td>
<td>6.3.1A</td>
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Short description of how this document meets the Standard and Measure’s requirements:

Authorities for the Department of Health and Welfare are outlined in Idaho Statutes. The director of the Idaho Department of Health and Welfare or his designee have the authority by this statute for enforcement of Department or Board of Health and Welfare administrative rules.

<table>
<thead>
<tr>
<th>Submitting Agency:</th>
<th>Idaho Division of Public Health</th>
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<tbody>
<tr>
<td>Staff Contact Name:</td>
<td>Traci Berreth</td>
</tr>
<tr>
<td>Staff Contact Position:</td>
<td>Chief, Public Health Business Operations/Accreditation Coordinator</td>
</tr>
<tr>
<td>Staff Contact Email:</td>
<td><a href="mailto:Traci.Berreth@dhw.idaho.gov">Traci.Berreth@dhw.idaho.gov</a></td>
</tr>
<tr>
<td>Staff Contact Phone:</td>
<td>208-334-5774</td>
</tr>
</tbody>
</table>

Can we attribute the document to your agency?
☒ Yes, you can include our agency name when posting
☐ No, please post the document anonymously

Can we include staff name and contact information with the documentation?
☒ Yes, you can include staff contact information
☐ No, please do not include staff contact information
TITLE 56
PUBLIC ASSISTANCE AND WELFARE
CHAPTER 10
DEPARTMENT OF HEALTH AND WELFARE

56-1009. INVESTIGATION -- INSPECTION -- RIGHT OF ENTRY -- VIOLATION -- ENFORCEMENT -- PENALTY -- INJUNCTIONS. (1) The director shall cause investigations to be made upon receipt of information concerning an alleged violation of this chapter or of any rule, permit or order promulgated thereunder, and may cause to be made such other investigations as the director shall deem advisable.

(2) For the purpose of enforcing any provision of this chapter or any rule authorized in this chapter, the director or the director's designee shall have the authority to:
   (a) Conduct a program of continuing surveillance and of regular or periodic inspection of actual or potential health hazards;
   (b) Enter at all reasonable times upon any private or public property, upon presentation of appropriate credentials, for the purpose of inspecting or investigating to ascertain possible violations of this chapter or of rules, permits or orders adopted and promulgated by the director or the board;
   (c) All inspections and investigations conducted under the authority of this chapter shall be performed in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and section 17, article I, of the constitution of the state of Idaho. The state shall not, under the authority granted by this chapter, conduct warrantless searches of private property in the absence of either consent from the property owner or occupier or exigent circumstances such as a public health emergency;
   (d) Any district court in and for the county in which the subject property is located is authorized to issue a search warrant to the director upon a showing of (i) probable cause to suspect a violation, or (ii) the existence of a reasonable program of inspection. Any search warrant issued under the authority of this chapter shall be limited in scope to the specific purposes for which it is issued and shall state with specificity the manner and the scope of the search authorized.

(3) Whenever the director determines that any person is in violation of any provision of this chapter or any rule, permit or order issued or promulgated pursuant to this chapter, the director may commence either of the following:
   (a) Administrative enforcement action.
      (i) Notice. The director may commence an administrative enforcement action by issuing a written notice of violation. The notice of violation shall identify the alleged violation with specificity, shall specify each provision of the chapter, rule, regulation, permit or order which has been violated, and shall state the amount of civil penalty claimed for each violation. The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director or the director's designee in a compliance conference. The conference shall be held within twenty (20) days of the date of receipt of the notice, unless a later date is agreed upon between the parties. If a compliance conference is not requested, the director may proceed with a civil enforcement action as provided in paragraph (b) of this subsection.
(iii) Compliance conference. The compliance conference shall provide an opportunity for the recipient of a notice of violation to explain the circumstances of the alleged violation and, where appropriate, to present a proposal for remedying damage caused by the alleged violation and assuring future compliance.

(iv) Consent order. If the recipient and the director agree on a plan to remedy damage caused by the alleged violation and to assure future compliance, they may enter into a consent order formalizing their agreement. The consent order may include a provision providing for payment of any agreed civil penalty.

(v) Effect of consent order. A consent order shall be effective immediately upon signing by both parties and shall preclude any civil enforcement action for the same alleged violation. If a party does not comply with the terms of the consent order, the director may seek and obtain, in any appropriate district court, specific performance of the consent order and such other relief as authorized in this chapter.

(vi) Failure to reach consent order. If the parties cannot reach agreement on a consent order within sixty (60) days after the receipt of the notice of violation or if the recipient does not request a compliance conference pursuant to paragraph (a)(ii) of this section, the director may commence and prosecute a civil enforcement action in district court, in accordance with subsection (b) of this section.

(b) Civil enforcement action. The director may initiate a civil enforcement action through the attorney general as provided in section 56-1016, Idaho Code. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred, and may be brought against any person who is alleged to have violated any provision of this chapter or any rule, permit or order which has become effective pursuant to this chapter. Such action may be brought to compel compliance with any provision of this chapter or with any rule, permit or order promulgated hereunder and for any relief or remedies authorized in this chapter. The director shall not be required to initiate or prosecute an administrative action before initiating a civil enforcement action.

(4) No civil or administrative proceeding may be brought to recover for a violation of any provision of this chapter or a violation of any rule, permit or order promulgated pursuant to this chapter, more than two (2) years after the director had knowledge or ought reasonably to have had knowledge of the violation.

(5) Monetary penalties. 
(a) Any person determined in a civil enforcement action to have violated any provision of this chapter or any rule, permit or order promulgated pursuant to this chapter shall be liable for a civil penalty not to exceed ten thousand dollars ($10,000) per violation or one thousand dollars ($1,000) for each day of a continuing violation, whichever is greater. The method of recovery of said penalty shall be by a civil enforcement action in the district court in and for the county where the violation occurred. All civil penalties collected under this chapter shall be paid into the general fund of the state. Parties to an administrative enforcement action may agree to a civil penalty as provided in this subsection.

(b) The imposition or computation of monetary penalties may take into account the seriousness of the violation and any good faith efforts by the person to comply with the law.

(6) In addition to such civil penalties, any person who has been determined to have violated the provisions of this chapter or the rules, permits or orders promulgated thereunder, shall be liable for any expense incurred by the state in enforcing the chapter, or in enforcing or terminating an nuisance, or health hazard.

(7) No action taken pursuant to the provisions of this chapter or any other health law shall relieve any person from any civil action and damages that may exist for injury or damage resulting from any violation of this chapter or of the rules, permits and orders promulgated thereunder.

(8) In addition to, and notwithstanding other provisions of this chapter, in circumstances of emergency creating conditions of imminent and substantial danger to the public health, the prosecuting attorney or the attorney general may institute a civil action for an immediate injunction to halt any activity in violation of the provisions of this chapter or rules, permits and orders promulgated thereunder. In such action the court may issue an ex parte restraining order.

History:
[56-1009, added 2001, ch. 110, sec. 2, p. 375.]
56-1010. COMMENCEMENT OF CIVIL ENFORCEMENT ACTIONS -- CRIMINAL ACTIONS AUTHORIZED -- DUTIES OF ATTORNEY GENERAL. Upon request of the director, it shall be the duty of the attorney general to institute and prosecute civil enforcement actions or injunctive actions as provided in section 56-1009, Idaho Code, and to prosecute actions or proceedings for the enforcement of any criminal provisions of this chapter. In addition, when deemed by the director to be necessary, the director may retain or employ private counsel. The attorney general may delegate the authority and duty under this section to prosecute criminal actions to the prosecuting attorney of the county in which such a criminal action may arise.

History:
(56-1010, added 2001, ch. 110, sec. 3, p. 377.)