

IDAHO ADMINISTRATIVE BULLETIN

August 6, 2025 – Vol. 25-8

Office of the Governor
Division of Financial Management
Office of the Administrative Rules Coordinator



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IDAHO ADMINISTRATIVE BULLETIN

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PREFACE

The Idaho Administrative Bulletin is an electronic-only, online monthly publication of the Office of the Administrative Rules Coordinator, Division of Financial Management, that is published pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all official rulemaking notices, official rule text, executive orders of the Governor, and all legislative documents affecting rules that are statutorily required to be published in the Bulletin. It may also include other rules-related documents an agency may want to make public through the Bulletin.

State agencies are required to provide public notice of all rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties may submit written comments to the agency or request public hearings of the agency, if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual “Notice of Rulemaking - Proposed Rule” for each proposed rule that is published in the Bulletin.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a “logical outgrowth” of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is “pending” legislative review for final approval. The pending rule is the agency’s final version of the rulemaking that will be forwarded to the legislature for review and final approval. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin 22-1 refers to the first Bulletin issued in calendar year 2022; Bulletin 24-1 refers to the first Bulletin issued in calendar year 2024. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 22-1 refers to January 2022; Volume No. 24-2 refers to February 2024; and so forth. Example: The Bulletin published in January 2022 is cited as Volume 22-1. The December 2022 Bulletin is cited as Volume 22-12.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is an electronic-only, online compilation of all final and enforceable administrative rules of the state of Idaho that are of full force and effect. Any temporary rule that is adopted by an agency and is of force and effect is codified into the Administrative Code upon Bulletin publication. All pending rules that have been approved by the legislature during the legislative session as final rules and any temporary rules that are extended supplement the Administrative Code. These rules are codified into the Administrative Code upon becoming effective. Because proposed and pending rules are not enforceable, they are published in the Administrative Bulletin only and cannot be codified into the Administrative Code until approved as final.

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the [Cumulative Rulemaking Index](#). Link to it on the Administrative Rules homepage at adminrules.idaho.gov.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho’s administrative rulemaking process, governed by the Idaho Administrative Procedure Act, [Title 67, Chapter 52, Idaho Code](#), comprises distinct rulemaking actions: negotiated, proposed, temporary, pending, and final rulemaking. Not all rulemakings incorporate or require all of these actions. For a rule to become final, at a minimum, a rulemaking includes proposed, pending, and final rulemaking. Some rules may be adopted as temporary rules when they meet the required statutory criteria. Agencies must, when feasible, engage in negotiated rulemaking at the beginning of the process to facilitate consensus building. In some cases, the process may begin with proposed rulemaking and end with the final rulemaking. The following is a brief explanation of each type of rule.

1. NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested persons and the agency seek consensus on the content of a rule through dialogue. Agencies are required to conduct negotiated rulemaking whenever it is feasible to do so. The agency files a “Notice of Intent to Promulgate – Negotiated Rulemaking” for publication in the Administrative Bulletin inviting interested persons to contact the agency if interested in discussing the agency’s intentions regarding the rule changes. This process is intended to result in the formulation of a proposed rule and the initiation of regular rulemaking procedures. One result, however, may also be that regular (proposed) rulemaking is not initiated and no further action is taken by the agency.

2. PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a “Notice of Rulemaking – Proposed Rule” in the Bulletin. This notice must include very specific information regarding the rulemaking including all relevant state or federal statutory authority occasioning the rulemaking, a non-technical description of the changes being made, any associated costs, guidance on how to participate through submission of written comments and requests for public hearings, and the text of the proposed rule in legislative format.

3. PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule. When a pending rule is published in the Bulletin, the agency is required to include certain information in the “Notice of Rulemaking – Pending Rule.” This includes a statement giving the reasons for adopting the rule, a statement regarding when the rule becomes effective, a description of how it differs from the proposed rule, and identification of any fees being imposed or changed.

Agencies are required to republish the text of the pending rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule.

4. FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures, has been approved by the legislature, and is of full force and effect.

5. TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

- a) protection of the public health, safety, or welfare; or
- b) compliance with deadlines in amendments to governing law or federal programs; or
- c) reducing a regulatory burden that would otherwise impact individuals or businesses.

If a rulemaking meets one or more of these criteria, and with the Governor’s approval, the agency may adopt and make a temporary rule effective prior to receiving legislative authorization and without allowing for any public input. The law allows an agency to make a temporary rule immediately effective upon adoption. A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

Agencies must concurrently promulgate a temporary rule and a proposed rule when the text of the two rulemakings is the same, unless the temporary rule will expire before a proposed rule could become final.

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the **Idaho Administrative Bulletin** are organized by a numbering schematic. Each state agency has a two-digit identification code number known as the **“IDAPA”** number. (The **“IDAPA”** Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or sections to which a two-digit **“TITLE”** number is assigned. There are **“CHAPTER”** numbers assigned within the Title and the rule text is divided among major sections that are further subdivided into subsections. An example IDAPA number is as follows:

IDAPA 38.05.01.041.02.c.ii.

“IDAPA” refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

“38.” refers to the Idaho Department of Administration

“05.” refers to Title **05**, which is the Department of Administration’s Division of Purchasing

“01.” refers to Chapter **01** of Title 05, “Rules of the Division of Purchasing”

“041.” refers to Major Section **041**, “Acquisition Procedures”

“02.” refers to Subsection 041.02.

“c.” refers to Subsection 041.02.c.

“ii.” refers to Subsection 041.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. Each rulemaking that is filed with the Coordinator is assigned a **“DOCKET NUMBER.”** The docket number is a series of numbers separated by a hyphen **“-”**, (**38-0501-2201**). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-2201”

“38-” denotes the agency's **IDAPA** number; in this case the Department of Administration.

“0501-” refers to the **TITLE AND CHAPTER** numbers of the agency rule being promulgated; in this case the Division of Purchasing (**TITLE 05**), Rules of the Division of Purchasing (**Chapter 01**).

“2201” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2022**. A subsequent rulemaking on this same rule chapter in calendar year 2022 would be designated as **“2202”**. The docket number in this scenario would be 38-0501-**2202**.

Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section **“200”** appears before Section **“345”** and so on). Whenever the sequence of the numbering is broken, the following statement will appear:

(BREAK IN CONTINUITY OF SECTIONS)

RULEMAKING DEADLINES CY 2025

BULLETIN MONTH / VOL.	FEB 25-2	MAR 25-3	APR 25-4	MAY 25-5	JUN 25-6	JUL 25-7	AUG 25-8	SEPT 25-9	OCT 25-10	NOV 25-11	DEC 25-12	JAN '26 26-1
ARRF DUE	Dec 20	Jan 24	Feb 21	Mar 21	April 18	May 23	June 20	July 18	Aug 15	Sept 19	Oct 24	Nov 21
AGENCY FILING DUE	Jan 3	Feb 7	Mar 7	April 4	May 2	June 6	July 3	Aug 1	*Aug 29	Oct 3	Nov 7	**Dec 5
BULLETIN PUBLISHED	Feb 5	Mar 5	April 2	May 7	June 4	July 2	Aug 6	Sept 3	Oct 1	Nov 5	Dec 3	Jan 7
21-DAY COMMENT ENDS	Feb 26	Mar 5	April 23	May 28	June 25	July 23	Aug 27	Sept 24	Oct 22	Nov 26	Dec 24	Jan 28

****August 29, 2025: Last day to submit a Proposed Rule for the upcoming Legislature***

*****December 5, 2025: Last day to submit a Pending Rule for the upcoming Legislature***

RULEMAKING DEADLINES CY 2026

BULLETIN MONTH / VOL.	FEB 26-2	MAR 26-3	APR 26-4	MAY 26-5	JUN 26-6	JUL 26-7	AUG 26-8	SEPT 26-9	OCT 26-10	NOV 26-11	DEC 26-12	JAN '27 27-1
ARRF DUE	Dec 26	Jan 23	Feb 20	March 20	April 17	May 15	June 19	July 17	Aug 14	Sept 18	Oct 16	Nov 20
AGENCY FILING DUE	Jan 9	Feb 6	Mar 6	April 3	May 1	May 29	July 3	July 31	*Aug 28	Oct 2	Oct 30	**Dec 4
BULLETIN PUBLISHED	Feb 4	Mar 4	April 1	May 6	June 3	July 1	Aug 5	Sept 2	Oct 7	Nov 4	Dec 2	Jan 6
21-DAY COMMENT ENDS	Feb 25	Mar 25	April 22	May 27	June 24	July 22	Aug 26	Sept 23	Oct 28	Nov 25	Dec 23	Jan 27

****August 28, 2026: Last day to submit a Proposed Rule for the upcoming Legislature***

*****December 4, 2026: Last day to submit a Pending Rule for the upcoming Legislature***

[Access to DFM's Administrative Rules Request Form \(ARRF\)](#)

[Access the Idaho Rule Writer's Manual](#)

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IDAPA 62	Administrative Hearings , Office of
IDAPA 02	Agriculture , Idaho State Department of Idaho Honey Commission (02.06.16) Idaho Hop Grower’s Commission (02.07) Idaho Sheep and Goat Health Board (02.08)
IDAPA 40	Arts , Idaho Commission on the
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IDAPA 11 – IDAHO STATE POLICE

11.06.01 – RULES GOVERNING CIVIL ASSET FORFEITURE REPORTING

DOCKET NO. 11-0601-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 37-2744 (Chapter 27, Article V), 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 August 20, 2025.

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:

Under [Executive Order 202-01 Zero-Based Regulation](#), the Idaho State Police is striving to prevent the accumulation of costly or outdated regulations and reduce the regulatory burden on Idaho citizens and businesses.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees associated with this proposed rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There will be no fiscal impact to the general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2025, Idaho Administrative Bulletin, [Volume 25-6 pages 22-23](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

Idaho Civil Asset Forfeiture Reporting Form. As adopted August 1, 2024, this document is available on the Internet at <https://isp.idaho.gov/wp-content/uploads/Districts/Civil-Forfeiture-Reporting.pdf>.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt Colonel Russ Wheatley, (208) 884-7004, email: Russ.wheatley@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 27th day of June, 2025.

Lt Colonel Russ Wheatley, Chief of Staff
Idaho State Police
700 S Stratford Drive
Meridian, ID 83642
(208) 884-7004
Russ.wheatley@isp.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-0601-2501
(ZBR Chapter Rewrite.)

11.06.01 – RULES GOVERNING CIVIL ASSET FORFEITURE REPORTING

000. LEGAL AUTHORITY.

~~01. In accordance with Section 37-2744 (Chapter 27, Article V), Idaho Code, the Idaho State Police is authorized to promulgate such rules and forms it deems necessary to carry out the provisions and mandate of said Section 37-2744, Idaho Code. (3-23-22)()~~

001. SCOPE.

These rules concern the civil asset forfeiture reporting form that the Idaho State Police is ~~charged with promulgating pursuant to Section 37-2744, Idaho Code~~ **required to promulgate.** (3-23-22)()

002. INCORPORATION BY REFERENCE.

The following is incorporated by reference in this chapter of rules: (3-23-22)

01. Idaho Civil Asset Forfeiture Reporting Form. As adopted ~~February 7, 2019~~ **August 1, 2024**, this document **Civil Asset Forfeiture Reporting Form** is available on the Internet at ~~https://www.isp.idaho.gov~~ **https://isp.idaho.gov/districts/district-forms.** (3-23-22)()

003. – ~~009.~~ (RESERVED)

010. DEFINITIONS.

~~01. Civil Asset Forfeiture Reporting Form.~~ A form promulgated by and available from the Idaho State Police, to be used by each state and local law enforcement agency. (3-23-22)

011. CONTENTS OF CIVIL ASSET FORFEITURE REPORTING FORM.

~~01. Asset Forfeiture Reporting Form.~~ The Asset Forfeiture Reporting Form shall contain fields for entry of the following information: (3-23-22)

- ~~a.~~ The name of the law enforcement agency that seized the property; (3-23-22)
- ~~b.~~ The date of seizure; (3-23-22)
- ~~c.~~ The type and description of property seized, including make, model, year, and serial number, if applicable; (3-23-22)
- ~~d.~~ The crime(s), if any, for which the suspect has been charged, including whether such crime is a violation of state or federal law; (3-23-22)
- ~~e.~~ The criminal case number, if any, and the outcome, if any, of the suspect's case; (3-23-22)
- ~~f.~~ If the forfeiture was not processed under state law, the reason for the federal transfer, if known; (3-23-22)
- ~~g.~~ The forfeiture case number; (3-23-22)

- ~~h.~~ The date of the forfeiture decision; (3-23-22)
 - ~~i.~~ Whether there was a forfeiture settlement; (3-23-22)
 - ~~j.~~ The date and outcome of property disposition as described by one (1) or more of the following:
returned to owner; partially returned to owner; sold; destroyed; or retained by law enforcement; and (3-23-22)
 - ~~k.~~ The value of the property forfeited based on the value realized, if sold, or a reasonable good faith
estimate of the value, if possible. (3-23-22)
- ~~012.~~—999. (RESERVED)

**IDAPA 11 – IDAHO STATE POLICE
IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM**

11.10.01 – RULES GOVERNING IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM

DOCKET NO. 11-1001-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section [67-5221\(1\)](#), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections [19-5201](#), [19-5203](#), and [19-5204](#) 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 August 20, 2025.

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: ISP initiated this rulemaking in compliance with [Executive Order No. 2020-01 Zero-Based Regulation](#) issued by Governor Little. Pursuant to the order, ISP performed a comprehensive review of the chapter to reduce the regulatory burden and increase clarity.

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

There is no increase in fees associated with this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact to the general fund associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section [67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2025 Idaho Administrative Bulletin, [Volume 25-6, pages 24-25](#).

INCORPORATION BY REFERENCE: Pursuant to Section [67-5229\(2\)\(a\)](#), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

Incorporated Documents. [IDAPA 11.10.01](#) incorporates by reference the full text of the requirements relating to criminal justice information and the system used to transport such information found in the following documents:

- “Criminal Justice Information Systems,” [28 CFR Part 20](#);
- “Criminal Justice Information Systems--CJIS Security Policy,” [Federal Bureau of Investigation, Criminal Justice Information Services \(CJIS\) Division, Version 6.0 \(January 2025\)](#);
- “National Crime Information Center 2000, Operating Manual,” [Federal Bureau of Investigation, National Crime Information Center \(August 2015\)](#);
- [The International and Public Safety Network, NLETS, Users Guide, \(April 23, 2025\)](#);
- The Idaho Public Safety and Security Information System User Manual.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Bureau Chief Leila McNeill at 208-884-7136, email Leila.mcneill@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 27th day of June, 2025.

Lieutenant Colonel Russ Wheatley, Chief of Staff
Idaho State Police
700 S Stratford Drive
Meridian, ID 83642
(208) 884-7004
Russ.wheatley@isp.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1001-2501
(ZBR Chapter Rewrite.)

11.10.01 – RULES GOVERNING IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM

000. LEGAL AUTHORITY.

Title 19, Chapter 52, Idaho Code, ~~creates an information system board and authorizes it to make rules necessary to establish and operate the Idaho Public Safety and Security Information System, known as “ILETS.”~~ (3-23-22)()

001. SCOPE.

These rules relate to the governance and operation of the Idaho Public Safety and Security Information System. (3-23-22)

002. INCORPORATION BY REFERENCE.

01. Incorporated Documents. IDAPA 11.10.01 incorporates by reference the full text of the requirements relating to criminal justice information and the system used to transport such information found in the following documents: (3-23-22)

a. “Criminal Justice Information Systems,” 28 CFR Part 20 (July 1, 2006); (3-23-22)

b. “Criminal Justice Information Systems--CJIS Security Policy,” Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, Version ~~5.8~~ 6.0 (~~June 2019~~ January 2025); (3-23-22)()

c. “National Crime Information Center 2000, Operating Manual,” Federal Bureau of Investigation, National Crime Information Center (August 2015); (3-23-22)

d. ~~The International and Public Safety Network, NLETS~~ lets, Users Guide, (~~October 19, 2012~~ April 23, 2025); (3-23-22)()

e. ~~The International and Public Safety Network, NLETS, Policies and Procedures, (October 19, 2012)~~ The Idaho Public Safety and Security Information System User Manual. (3-23-22)()

02. Document Availability. The above listed documents are available during normal working hours for inspection and copying at the Idaho State Police. (3-23-22)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Access Agency.** An agency that electronically accesses ILETS through the services of an interface agency. (3-23-22)
02. **Administration of Criminal Justice.** (3-23-22)
- a. Performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. (3-23-22)
- b. It also includes: criminal identification activities; and collection, storage, and dissemination of criminal history record information. (3-23-22)
03. **Associated System.** Any automated or manual information system that is accessible through ILETS. (3-23-22)
04. **Board.** The Board created by Title 19, Chapter 52, Idaho Code to establish priorities and operational policies and procedures relating to ILETS. (3-23-22)
05. **Criminal Justice Agency.** (3-23-22)
- a. Federal and state courts having jurisdiction to hear criminal matters; and (3-23-22)
- b. A government agency or a subunit of a government agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of justice. State and federal Inspectors General Offices are included. (3-23-22)()
06. **Department.** The Idaho State Police, or its successor agency. (3-23-22)
07. **Executive Officer.** A position on the ILETS Board filled by the director of the Idaho State Police, or its successor agency. (3-23-22)
08. **III.** The Interstate Identification Index, which is a cooperative federal-state system for the exchange of automated criminal history records and, to the extent of their participation in the III system, the criminal history repositories of the states. (3-23-22)
09. **ILETS.** The Idaho Public Safety and Security Information System as established by the director of Idaho State Police pursuant to Title 19, Chapter 52, Idaho Code, includes all hardware, software, electronic switches, peripheral gear, microwave links, and circuitry that comprise the system. (3-23-22)
10. ~~Interface~~ **Direct Access Agency.** An agency that has management control of a computer system directly connected to ILETS. (3-23-22)()
11. **Management Control Agreement.** A written agreement between a criminal justice agency and a non-criminal justice agency that provides services (dispatching, record keeping, computer services, etc.) to the criminal justice agency. The agreement gives the criminal justice agency authority to set and enforce policies governing the non-criminal justice agency's access to ILETS and ILETS derived information. (3-23-22)()
12. ~~NCIC 2000. The Federal Bureau of Investigation National Crime Information Center, is a computerized information system that includes telecommunications lines and message facilities authorized by law, regulation, or policy approved by the United States Attorney General to link local, state, tribal, federal, foreign, and international criminal justice agencies for the purpose of exchanging NCIC related information. The National Crime Information Center (NCIC) System is a nationwide information system established as a service to all criminal justice agencies – federal, state, local, tribal, and territorial. The goal of the NCIC System is to help the criminal justice community perform its duties by providing and maintaining a filing system of accurate and timely documented criminal justice information.~~ (3-23-22)()
13. **NLETS.** The International Justice and Public Safety Information Sharing Network, is a national

computerized message switching system that links national and state criminal justice information systems. (3-23-22)

14. Non-Criminal Justice Agency. A state agency, federal agency, or unit of local government that is not a criminal justice agency. The term does not refer to private individuals, corporations, or non-governmental agencies or organizations. (3-23-22)

011. (RESERVED)

012. EXECUTIVE OFFICER OF THE BOARD.

01. Authority of Office. The executive officer represents the Board in the day-to-day administration of ILETS and is responsible for ~~ensuring that all~~ implementing Board policies ~~and decisions of the Board are promulgated~~ pursuant to the authority of Chapter 52, Title 19, Idaho Code. The executive officer may delegate duties to employees and officers of the department and executes instruments for, and on behalf of, the Board and ILETS. (3-23-22)(____)

02. Additional Responsibilities. The executive officer ~~is responsible for ensuring, subject to adequate legislative appropriations, that the Board receives adequate staff support and that the following staff duties are performed:~~ ensures, within available legislative appropriation, that the Board has sufficient staff support and that staff carry out duties including posting meeting notices, preparing and distributing agendas, keeping official records of Board meetings, and managing all documents related to the Board and ILETS operations. (3-23-22)(____)

~~a. Preparation and dissemination of agendas, posting of legal notices of all meetings, and maintenance of a written record of the proceedings of board meetings; and~~ (3-23-22)

~~b. Management of all documents relating to the Board and ILETS operations.~~ (3-23-22)

013. -- 015. (RESERVED)

016. ILETS NETWORK.

01. Establishment. The executive officer establishes ILETS as a program of the Idaho State Police or its successor agency. (3-23-22)

02. Responsibilities. The program, as established by the executive officer, has the following responsibilities: (3-23-22)

a. Develop and operate a computerized criminal justice telecommunications and information system that provides message switching and record inquiry and retrieval capabilities. (3-23-22)

b. Publish an ILETS Operations Manual and ~~distribute copies to each user agency~~ make available to all user agencies. (3-23-22)(____)

c. Function as the NCIC control terminal agency and the NLETS control terminal agency for the State of Idaho. (3-23-22)

d. Assist and train criminal justice agencies regarding information retrieved from ILETS and associated systems for use in administration of criminal justice. (3-23-22)

e. ~~Develop~~ Establish and maintain ~~linkages~~ connections with the Idaho Transportation Department, ~~Idaho Department of Correction, and other Idaho~~ agencies and systems to ~~make appropriate~~ share information ~~available to Idaho criminal justice agencies that will assist them in the~~ supports enforcement of state criminal and traffic laws and regulations. (3-23-22)(____)

f. Provide staff support to the ILETS Board. (3-23-22)

g. Operate and maintain a program of record validation, quality control, and audits to ensure ~~that~~

records ~~entered into in~~ ILETS and NCIC ~~files by the department and user agencies~~ are kept timely, accurate, ~~and complete, and that compliance and compliant~~ with state and national standards ~~is maintained~~. (3-23-22)()

h. Create and maintain model management control agreements between criminal justice agencies and non-criminal justice agencies. (3-23-22)()

i. Provide assistance and information access to non-criminal justice ~~user~~ agencies for statutory licensing, employment ~~and~~, regulatory ~~purposes~~ and ~~for~~ other purposes legally authorized ~~by law~~ and approved by the Board. (3-23-22)()

017. AGENCY ACCESS TO ILETS.

01. Authorized Agencies. Consistent with Title 19, Chapter 52, Idaho Code, which mandates the exclusive use of ILETS for law enforcement and traffic safety purposes, access to ILETS is restricted to the following governmental agencies: (3-23-22)

a. Criminal justice agencies; (3-23-22)

b. Non-criminal agencies that provide computer services, dispatching support, or other direct support service to one (1) or more criminal justice agencies, and which have signed an ILETS-approved management control agreement with the criminal justice agency; (3-23-22)

c. Non-criminal justice agencies with a statutory requirement to use information capabilities that may be available via ILETS, and use of terminal access will not adversely affect criminal justice agency users, and use of the terminal will be for the administration of criminal justice; ~~and~~ (3-23-22)()

d. Non-criminal justice agencies that provide information or capabilities needed by criminal justice agencies for a criminal justice purpose, and access or use of a terminal will improve the ability to provide such information or capabilities; ~~and~~ (3-23-22)()

e. Providing services to criminal justice agencies does not, by itself, authorize ILETS access. ()

02. Management Control Agreements. The management control agreement between a criminal justice agency and a non-criminal justice agency grants to the criminal justice agency the authority to set and enforce: (3-23-22)

a. Priorities of service; (3-23-22)

b. Standards for the selection, supervision, and termination of personnel authorized to access ILETS; and (3-23-22)

c. Policies governing the operation of computers, circuits, and telecommunications terminals used to process, store, or transmit information to or receive information from ILETS. (3-23-22)

03. Board Approval. The Board reviews all requests for access to ILETS and determines whether an agency meets the criteria for access and whether access is appropriate based on system resources. Approved non-criminal justice agencies may have access to ILETS information on a limited basis (for example, motor vehicle information only) as authorized by the Board. (3-23-22)

018. USER ACCESS FEES.

01. Payment of Fees Required. Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the network must pay access and usage fees as provided in Section 018. (3-23-22)

02. ILETS Network User Access Fees. The access fees approved by the Board and to be collected quarterly in advance by the department are as follows: (3-23-22)

a. An agency at the county or municipal level pays an annual access fee of five thousand, four hundred and twenty-five dollars (\$5,425). (3-23-22)

b. An agency at the state, federal, or tribal level pays an annual access fee of nine thousand dollars (\$9,000). (3-23-22)

03. Usage Fee. Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the ILETS network pays quarterly a usage fee based on that agency's percentage of total annual messages sent and received by user agencies through the ILETS message switcher. The total percentage for an agency includes the message traffic generated by any other agency authorized to access ILETS through that agency's direct terminal or system access. (3-23-22)

a. The usage fee is assessed according to the following schedule:

Percentage of Total ILETS Message Traffic	Annual Usage Fee Effective October 1, 2023
0 -.25%	\$3,750
.26 - .50%	\$7,500
.51 - .75%	\$15,000
.76 - 1.0%	\$24,000
1.01 - 1.50%	\$32,500
1.51 - 2.0%	\$48,750
2.01 - 5.0%	\$69,625
> 5.01%	\$98,939

(7-1-24)

b. The department will conduct audits of ILETS message switcher traffic for even-numbered years to determine an agency's annual usage fee. This fee is effective for two (2) years and begins with the quarterly statement beginning October 1 of odd-numbered years. (3-23-22)

c. If an agency discontinues direct terminal or system access to ILETS and acquires authorized access through another agency, the usage fee for the agency maintaining direct access will be adjusted to reflect the combined historical usage. (3-23-22)

d. A new agency approved for direct ILETS access that does not have historical usage will be assessed an interim usage fee by the department pending the next audit of ILETS message traffic. The department sets an interim fee based on the agency's similarities to existing agencies with direct terminal or system access. An agency may appeal the interim usage fee set by the department to the ILETS Board. (3-23-22)

e. As operator of ILETS, the department, in lieu of payment of fees, provides direct and in-kind support of network operations. The Board reviews biennially the proportion of that support to the overall operating cost of the system. (3-23-22)

04. Billing and Payment. The department mails billing statements quarterly to all agencies with direct terminal or system access to ILETS (~~October 1, January 1, April 1, and July 1~~). Payment of the fees is due by the first day of the following month of each quarter (~~October 1, January 1, April 1, and July 1~~), unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment is due on the first successive business day. (~~3-23-22~~)()

05. Sanctions for Delinquency. Any user agency that becomes delinquent in payment of assessed fees is subject to sanctions under Section 028. (3-23-22)

019. ADJUSTED ACCESS FEES DURING PILOT PROJECTS.

The Board may adjust access fees of user agencies participating in pilot projects being conducted by the department in behalf of ILETS. The fee adjustment is based on any cost savings, actual or anticipated, realized by the ILETS network. (3-23-22)

020. USER RESPONSIBILITIES.

01. User Agreement. ~~Any agency with access to ILETS, whether directly or through another agency, is responsible for adhering to all applicable ILETS rules and policies and must have signed an agreement with ILETS or an interface agency to that effect.~~ accessing ILETS, directly or through another agency, must comply with all ILETS rules and policies and have a signed agreement with ILETS or the direct access agency. (3-23-22)()

02. Record Validation. ~~Any agency that enters information into ILETS or NCIC files is responsible for the accuracy, timeliness and completeness of that information. ILETS will send a record validation review list, regularly, to each agency. Validation is accomplished by reviewing the original entry and current supporting documents. Recent consultation with any appropriate complainant, victim, prosecutor, court, motor vehicle registry files, or other appropriate source or individual also is required with respect to the wanted person, missing person, and vehicle files. In the event the agency is unsuccessful in its attempts to contact the victim, complainant, etc., the entering authority must make a determination based on the best information and knowledge available whether or not to retain the original entry in the file. Validation procedures must be formalized and copies of these procedures be on file for review during an ILETS or NCIC audit. When the agency has completed the validation process, the records must be modified to verify their validity no later than thirty (30) days after receiving electronic notification.~~ (3-23-22)

03. Minimum Training ILETS Certification. ~~Each agency employee who operates a computer to access ILETS must complete ILETS training at a level consistent with the employee's duties. Each employee who operates a computer to access ILETS must be re-certified~~ within three months of accessing ILETS and ~~by the agency~~ every two (2) years thereafter. (3-23-22)()

04. Hit Confirmation. ~~When another agency receives a positive record response (Hit) from ILETS or NCIC and requests confirmation of the status of the record (warrant, stolen vehicle, etc.), the agency responsible for entry of the record must respond within ten (10) minutes for urgent hit confirmation requests or within one (1) hour for routine hit confirmation requests, with an answer that indicates the status of the record or a time frame when the record status will be confirmed.~~ (3-23-22)

05. Terminal Agency Coordinators. ~~The agency administrator of each agency with computer access to ILETS must designate one (1) or more terminal agency coordinators who will be the primary contact(s) for all matters relating to use of ILETS by the agency. A terminal agency coordinator must have sufficient authority to implement and enforce necessary policy and procedures.~~ (3-23-22)

06. Background Checks of Terminal Operators ILETS Authorized Users Required. ~~Policies for access to the FBI-NCIC system require background screening of all terminal operators with access to the NCIC system. For efficiency and consistency, the NCIC background screening policies are also adopted for all ILETS access.~~ All persons accessing ILETS or ILETS-derived information must undergo a national Criminal Justice fingerprint-based records check, in accordance with FBI CJIS policies. These screening policies are adopted for all ILETS access to ensure consistency. Results must meet the Board-approved ILETS access criterion, and persons must be approved before access is granted. (3-23-22)()

021. INFORMATION ACCESS AND DISSEMINATION.

01. General Policy. ~~Information is made available to ILETS users from various sources and agencies, including ILETS and other state justice information system files, motor vehicle departments, NCIC, and NLETS. Each user must observe any restrictions placed on the use or dissemination of information by its source. It is ILETS' responsibility to advise user agencies of any restrictions which apply to any information accessed via ILETS.~~ ILETS users receive information from multiple sources, including ILETS, Idaho criminal justice agencies, motor vehicle departments, FBI CJIS, and Nlets. Users must follow any restrictions set by the information source. ILETS is responsible for informing users of applicable access or dissemination restrictions. (3-23-22)()

02. Criminal History Records. Criminal history information accessed via ILETS from a state or national computerized file is available only to criminal justice agencies for criminal justice purposes. This precludes the dissemination of such information for use in connection with licensing applications, regulatory activities, or local or state employment, other than with a criminal justice agency. (3-23-22)

~~**03. Administrative Messages.** An administrative message (AM) is a free text message from one (1) agency to one (1) or more agencies. All administrative messages transmitted via ILETS must be by the authority of an authorized user and relate to criminal justice purposes or matters of interest to the user community. Administrative messages sent within Idaho, either statewide, regionally or to individual terminal identifiers are subject to the following restrictions: (3-23-22)~~

~~**a.** No messages supportive or in opposition to political issues, labor management issues, or announcements of meetings relative to such issues. (3-23-22)~~

~~**b.** No messages supportive or in opposition of legislative bills. (3-23-22)~~

~~**e.** No requests for criminal history record information. (3-23-22)~~

022. -- 023. (RESERVED)

024. ILETS SECURITY.

01. General Policy. The data stored in the ILETS, NCIC, and other criminal justice information system files is documented criminal justice information. This information must be protected to ensure its integrity and its correct, legal and efficient storage, dissemination and use. It is incumbent upon an agency accessing ILETS directly, or another system that has access to the ILETS network, to implement the procedures necessary to make the access device secure from any unauthorized use and to ensure ILETS is not subject to a malicious disruption of service. ILETS access agencies must participate in ILETS training and compliance activities to ensure that all agency personnel authorized to access the ILETS network are instructed in the proper use and dissemination of the information and that appropriate agency personnel are aware of security requirements and of the dangers to network integrity. ILETS may impose more stringent or additional protection measures than outlined in this document. ILETS retains the authority to disconnect an access agency or network connection when serious security threats and vulnerabilities are detected. (3-23-22)(____)

02. Definitions. The following is a list of terms and their meanings as used in the ILETS security rule: (3-23-22)

~~**a.** Computer interface capabilities means any communication to ILETS allowing an agency to participate in the system. (3-23-22)~~

~~**b.** Firewall means a collection of components placed between two (2) networks that keep the host network secure by having the following properties: (3-23-22)~~

~~**i.** All traffic from inside the network to outside, and vice-versa, must pass through it; (3-23-22)~~

~~**ii.** Only authorized traffic is allowed to pass; and (3-23-22)~~

~~**iii.** The components as a whole are immune to unauthorized penetration and disablement. (3-23-22)~~

~~**ea.** ILETS Security Officer (ISO) is the department staff member designated by the executive officer to monitor and enforce agency compliance with site and network security requirements. This position contains additional responsibilities as defined in the CJIS Security Policy as CJIS Systems Agency Information Security Officer. (3-23-22)(____)~~

~~**db.** Peer networks are ~~computer~~ interfaces between cooperative governmental agencies in Idaho where none of the participating entities exercise administrative or management control over any other participating entity.~~

(3-23-22)()

~~e. Interface agency is an agency that has management control of a computer system directly connected to ILETS.~~ (3-23-22)

~~f. Untrusted system is any system or series of systems that does not employ sufficient hardware or software security measures to allow its use for simultaneously processing a range of sensitive or confidential information meet the compliance requirements of ILETS, Nlets, CJIS Security Policy, and/or are not authorized for access to ILETS information.~~ (3-23-22)()

03. ~~Interface-Direct Access Agency Agreements.~~ To ensure agencies having computer interface capabilities to ILETS are fully aware of their duties and of the consequences of failure to carry out those duties, a written and binding ~~Interface Direct Access Agency Addendum Agreement~~ must exist between ILETS and all ~~interface direct access~~ agencies. This agreement will clarify that the ~~interface direct access~~ agency is equally responsible for actions by secondary and affiliated systems connected through their site to ILETS. ~~Interface Direct access~~ agencies must put in place similar subsidiary security agreements with secondary and affiliated systems to protect its network and ILETS. (3-23-22)()

04. ILETS Security Officer. The ILETS Security Officer is responsible for the following duties: (3-23-22)

a. ~~Disseminating~~ Make available to user agencies copies of ILETS security policies and guidelines; (3-23-22)()

b. Communicating to user agencies information regarding current perceived security threats and providing recommended measures to address the threats; (3-23-22)

c. Monitoring use of the ILETS ~~network systems~~ either in response to information about a specific threat, or generally because of a perceived situation; (3-23-22)()

d. Directing an ~~interface direct access~~ agency, through its ~~nominated~~ appropriate contact, to rectify any ~~omission in its duty of responsibility~~ compliance findings; (3-23-22)()

e. When an agency is unable or unwilling to co-operate, reporting the issue to the executive officer and initiating ~~the procedure for achieving an emergency disconnection~~ escalated sanctions pursuant to IDAPA 11.10.01 section 28; and (3-23-22)()

f. Provide support and coordination for investigations into breaches of security. (3-23-22)

05. Agency Security Contacts. A terminal agency coordinator shall serve as that agency's security contact for ILETS, unless another individual is specifically selected for this purpose and approved by the ILETS Security Officer. ILETS primary sites shall ensure the agency's security contact, or another person or position designated in an incident contingency plan, can be contacted by the ILETS security officer at any time. (3-23-22)

06. Peer Networks. The security responsibilities of the operators of peer networks connected to ILETS, with respect to their user organizations, are parallel to those of ILETS user organizations in respect to their individual users. The ILETS Security Officer shall ensure that a written agreement exists between ILETS and an interface agency, signed by the agency heads, that embodies these principles. (3-23-22)

07. ~~Physical Security Standards.~~ ~~Interface agencies will observe standards and procedures to ensure security of the physical premises and computing equipment. The minimum standards and procedures include the following:~~ (3-23-22)

~~a. Access to computer rooms will be limited to staff who require access for the normal performance of their duties.~~ (3-23-22)

~~b. Electrical power protection devices to suppress surges, reduce static, and provide battery backup in~~

~~the event of a power failure will be used as necessary. (3-23-22)~~

~~e. Computer system backups shall be stored in a secure location with restricted access. (3-23-22)~~

~~d. Network infrastructure components will be controlled with access limited to support personnel with a demonstrated need for access. (3-23-22)~~

~~e. Physical labeling of infrastructure components will be done to assist in proper identification. Additionally, all components will be inventoried at regular intervals for asset management and physical protection. (3-23-22)~~

~~f. An interface agency must create and enforce a password policy in which the agency is responsible for assigning ILETS users a unique password. The password policy must require that a new password be initiated by the user or agency every ninety (90) days. (3-23-22)~~

087. Network/Physical/Personnel Security Standards. ~~User agencies must exercise appropriate security precautions when connecting ILETS and computer systems linked to ILETS with external untrusted systems. The primary objective of such precautions is to prevent unauthorized access to sensitive information while still allowing authorized users free access. The minimum standards and procedures include the following: (3-23-22)~~ **Are established through the incorporation by reference of the CJIS Security Policy. (3-23-22)()**

~~a. Agencies must routinely audit for and remove unused or unneeded services/accounts, review accounts periodically, and enforce aggressive and effective password strategies. (3-23-22)~~

~~b. Agencies must ensure that the software security features of the networks they manage are installed and functioning correctly. (3-23-22)~~

~~c. Agencies must monitor network security on a regular basis. Adequate information concerning network traffic and activity must be logged to ensure that breaches in network security can be detected. (3-23-22)~~

~~d. Agencies must implement and maintain procedures to provide the ILETS network adequate protection from intrusion by external and unauthorized sources. (3-23-22)~~

~~e. No computer connected to the network can have stored, on its disk(s) or in memory, information that would permit access to other parts of the network. For example, scripts used in accessing a remote host may not contain passwords. (3-23-22)~~

~~f. No connection to ILETS may be established utilizing dial up communications. Asynchronous communications connections should be limited and tightly controlled as they pose a serious risk because they can circumvent any security precaution enacted to protect networks from untrusted sources. (3-23-22)~~

~~g. Network management protocols must be limited to internal or trusted networks. (3-23-22)~~

~~h. Any system having direct or indirect access to the Internet via their computer network must have in place services that allow no access to ILETS from the Internet. Organizations with large distributed Wide Area Networks connecting many remote sites may choose to incorporate many security layers and a variety of strategies. These strategies must incorporate the implementation of a firewall to block network traffic, and restriction of remote user access. (3-23-22)~~

~~i. Agencies accessing ILETS directly or through another agency, must insure that all telecommunications infrastructure meets the FBI CJIS Security Policy for encryption standards. (3-23-22)~~

~~j. No routing or IP Network Translations are to be performed on individual access devices. All routing and translation must be performed on a router or firewall device. (3-23-22)~~

025. -- 027~~6~~. (RESERVED)

027. MISUSE OF THE ILETS SYSTEM AND/OR DERIVED INFORMATION

Refer to the ILETS Manual.

()

028. USER ACCESS AGENCY SANCTIONS.

01. Review of Violations. The board reviews violations of ILETS rules and may impose appropriate sanctions on access agencies. (3-23-22)

02. Objective of Sanctions. The objectives of the sanction procedure are as follows: (3-23-22)

a. To ensure the security, integrity, availability, and financial stability of ~~the~~ ILETS and access agencies. (3-23-22)()

b. To create an awareness among access agencies of the importance of following rules, regulations, and procedures in order to minimize the risk to liabilities that may be incurred by misuse of the system and access to its information. (3-23-22)

03. Class Severity of Sanctions. Sanctions are based upon the class severity of violation, ~~any previous violations offenses~~, and ~~any exposure to criminal and civil liabilities that the violation might place on the system, its officials, and the offending agency~~ potential legal risks. ~~Violations are classed as either administrative (minor) or security (serious) violations. Security violations are defined as ones which have or could result in access of ILETS data by unauthorized individuals. All other violations are classed as administrative. When deciding on sanctions, the Board considers the violation's severity, prior sanctions, and any corrective action plans submitted by the offending agency. Sanctions can include various actions as determined by the Board. The Board may impose as sanctions, one (1) or more of the following:~~ (3-23-22)()

04. Form of Sanctions. ~~When imposing sanctions, the Board considers the severity of the violation, the violation type, either administrative or security, and previous sanctions issued. The Board may require the violating agency to submit a mediation plan showing how the violation will be corrected and future violations prevented. The Board shall consider such a mediation plan, if submitted, when imposing sanctions. The Board may impose as sanctions one (1) or more of the following:~~ (3-23-22)

a. Written warning. (3-23-22)

b. Written notice of violation. (3-23-22)

c. Written notice of probation. (3-23-22)

d. Written notice of temporary suspension. (3-23-22)

e. Written notice of permanent suspension. (3-23-22)

054. Effective Date of Sanctions. Temporary or permanent suspension of service will not begin, unless an emergency exists, until fifteen (15) days after the agency head has received written notice by certified mail or personal service. (3-23-22)

065. Reinstatement. An agency placed on permanent suspension may apply to the Board for reinstatement. (3-23-22)

029. -- 999. (RESERVED)

IDAPA 11 – IDAHO STATE POLICE

11.10.02 – RULES GOVERNING STATE CRIMINAL HISTORY RECORDS AND CRIME INFORMATION

DOCKET NO. 11-1002-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section [67-5221\(1\)](#), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections [67-3001](#), [67-3003](#), [67-3004](#), [67-3007](#), and [67-3010](#), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, August 7, 2025 10:00 a.m. -11:00 a.m. MT
In Person: Idaho State Police Headquarters 700 S Stratford Dr. Meridian, ID 83642 Cafeteria Conference Room
Virtual: Join the meeting now Meeting ID: 221 188 119816 5 Passcode: t9bH2e5R

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: ISP initiated this rulemaking in support of [Executive Order No. 2020-01 Zero-Based Regulation](#) issued by Governor Little. Pursuant to the order, ISP performed a comprehensive review of the chapter to reduce the regulatory burden and increase clarity.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees associated with this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section [67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 2025 Idaho Administrative Bulletin, [Volume 25-6 pages 26-27](#).

INCORPORATION BY REFERENCE: Pursuant to Section [67-5229\(2\)\(a\)](#), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: There are no documents incorporated by reference associated with this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Bureau Chief Leila McNeill at 208-884-7316, email Leila.McNeill@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 26th day of June, 2025.

Lieutenant Colonel Russ Wheatley, Chief of Staff
Idaho State Police
700 S Stratford Drive
Meridian ID 83642
(208) 884-7004
Russ.wheatley@isp.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1002-2501
(ZBR Chapter Rewrite.)

11.10.02 – RULES GOVERNING STATE CRIMINAL HISTORY RECORDS AND CRIME INFORMATION

000. LEGAL AUTHORITY.

~~These rules are authorized by~~ Sections 67-3001, 67-3003, 67-3004, 67-3007, and 67-3010, Idaho Code. (3-23-22)()

001. SCOPE.

The rules relate to the governance and operation of criminal history records and crime information. (3-23-22)

002. -- 009. (RESERVED)

010. DEFINITIONS.

Except as otherwise specifically provided, the terms defined or abbreviated in Section 67-3001, Idaho Code, have the same meaning in these rules. (3-23-22)

01. Acquittal. The legal certification by a jury or judge that a person is not guilty of the crime charged. (3-23-22)

02. Criminal Summons. Includes any summons, information or indictment issued in a criminal proceeding or action. (3-23-22)

03. Dismissal. Termination of a criminal action without further hearing or trial in the interest of justice. (3-23-22)

04. Expunge. ~~To erase or destroy, to declare null and void outside the record, so that it is noted in the original record as expunged, and redacted from all future copies~~ Destroy, delete, erase, or seal a criminal history record. (3-23-22)()

05. Serious Misdemeanor. A crime, that if convicted, could be punishable by imprisonment in a county jail. (3-23-22)

011. -- 020. (RESERVED)

021. EXPUNGEMENT PROCEDURE.

A person seeking to expunge their criminal history record must: (3-23-22)

01. Application. Submit the proper completed application to the Bureau of Criminal Identification as provided by the Bureau. (3-23-22)

02. Information. Include a copy of one (1) of the following to the Bureau of Criminal Identification: (3-23-22)

a. Criminal citation; or (3-23-22)

b. Criminal Summons, Complaint, and Affidavit of Service by the county sheriff's office; or (3-23-22)

c. Indictment; or (3-23-22)

d. Information. (3-23-22)

03. Certified Copy of Order of Acquittal or Order of Dismissal. (3-23-22)

a. Include a certified copy of the ~~court's~~ order of acquittal ~~finding the applicant was not guilty of the crime charged;~~ or (3-23-22)()

b. A certified copy of the dismissal order, showing ~~that~~ all charges related to that arrest were dismissed. (3-23-22)()

022. TRANSMITTAL OF CRIMINAL HISTORY RECORDS (RESERVED).

~~The transmittal of criminal history arrest fingerprint(s) may be via electronic submission from a live scan or card scanner over a secured and approved network or by hard copy through regular mail.~~ (3-23-22)

023. PROCEDURE FOR CONTESTING THE ACCURACY AND COMPLETENESS OF A CRIMINAL HISTORY RECORD CONTAINED IN AGENCY FILE.

01. Challenge Accuracy of Records. A person may challenge the accuracy and correctness of their criminal history records contained in the Bureau's database. (3-23-22)

a. The applicant must submit ~~to fingerprinting through either~~ fingerprints to the Bureau of Criminal Identification ~~or other law enforcement agency. A fingerprinting fee may apply~~ for comparison. (3-23-22)()

~~**02b. Notification of Fingerprints Not Matched.**~~ If the applicant's fingerprints do not match those contained in the Bureau's database, the applicant will be notified by ~~certified~~ mail. (3-23-22)()

~~**03c. Documentation of Erroneous Information.**~~ If the applicant's fingerprints match, but the applicant has documentation showing the information is in error, the applicant may submit such information to the Bureau of Criminal Identification for correction. (3-23-22)()

~~**04d. Correction of Records.**~~ The Bureau of Criminal Identification will correct its records per the direction of the law enforcement agency where the initial criminal action arose or appropriate court order. (3-23-22)()

024. -- 030. (RESERVED)

031. FEES FOR SERVICES.

The Bureau shall charge fees as follows: (3-23-22)

01. Fingerprint Check. Not more than twenty-five dollars (\$25) for each fingerprint check requested for other than law enforcement purposes. (3-23-22)

02. Name Check. Not more than twenty dollars (\$20) for each name check requested for other than law enforcement purposes. (3-23-22)

03. Rolling Fingerprint. Not more than ten dollars (\$10) for rolling a set of fingerprints and no more than five dollars (\$5) for each additional copy of such rolled fingerprints. (3-23-22)

032. -- 999. (RESERVED)

IDAPA 11 – IDAHO STATE POLICE
11.10.03 – RULES GOVERNING THE SEX OFFENDER REGISTRY
DOCKET NO. 11-1003-2501 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 18-8301 through 18-8331, 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 August 20, 2025.

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:

ISP initiated this rulemaking in support of [Executive Order No 2020-01 Zero-Based Regulation](#) issued by Governor Little. Pursuant to the order, ISP performed a comprehensive review of the chapter to reduce the regulatory burden and increase clarity.

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

There are no fees associated with this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2025, Idaho Administrative Bulletin, [Volume 25-6, pages 28-29](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Bureau Chief, Leila McNeill, (208) 884-7136 email-Leila.mcneill@isp.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 27th day of June, 2025.

Lieutenant Colonel Russ Wheatley, Chief of Staff
Idaho State Police
700 S Stratford Drive
Meridian ID 83642
(208) 884-7004
Russ.Wheatley@isp.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1003-2501
(ZBR Chapter Rewrite.)

11.10.03 – RULES GOVERNING THE SEX OFFENDER REGISTRY

000. LEGAL AUTHORITY.

Title 18, Chapter 83, Idaho Code, Sections 18-8301 through 18-8331. (4-6-23)

001. SCOPE.

The rules relate to the administration of the state's sex offender central registry, which includes both adult and juvenile offenders. (3-23-22)

002. -- 009. (RESERVED)

010. DEFINITIONS.

The terms defined in Section 67-3001, Idaho Code, apply as do the following terms: (4-6-23)

01. Substantially Equivalent. Any sex offense related crime, regardless of whether a felony or misdemeanor, that consists of similar elements defined in Title 18 of the Idaho Criminal Code. It does not mean exactly the same, nor exactly identical to. (3-23-22)

02. Working Days. Each day except Saturday, Sunday, or a legal state holiday. (3-23-22)

011. (RESERVED)

012. SEX OFFENDER CENTRAL REGISTRY -- ADMINISTRATION.

01. Central Registry Established. The bureau of criminal identification is responsible for administration of the central registry pursuant to the requirements in Title 18, Chapters 83 and 84, Idaho Code and these rules. (4-6-23)

02. Forms. The following forms and procedures will be used to provide notice to and collect information from persons required to register as a sex offender. (4-6-23)

a. "Idaho Sex Offender Registry Form:" notifies an offender of ~~register~~ registration requirements and collects from an offender information required for registration or any change of address or status, as required by statute. (4-6-23)()

b. "Idaho Sex Offender Registry Homeless - Location Verification Form:" is used during bi-weekly reporting to collect from an offender the information required when the offender does not provide a physical address at the time of registration. (4-6-23)

03. Photographs and Fingerprints. (3-23-22)

a. An offender's photograph will be in color. The sheriff will forward a copy of the photograph to the bureau with tagging information so it may easily be located by registry staff ~~in the department of transportation photo database~~. Photographs submitted to the central registry will be a copy of the new photographs taken at the time of each registration. ~~From collected registration fees, the sheriff will pay to the state the cost of photography materials lawfully required by a state agency or department.~~ (3-23-22)()

b. The sheriff will also submit the required fingerprints and palmprints for each registrant, in a manner

prescribed by the department, either by manual card or electronic submission for each registration. ~~(3-23-22)~~()

04. Notification to Local Law Enforcement. Lists of all offenders registered within a county are available on the sex offender registry web site. The bureau will notify the appropriate county law enforcement agency with jurisdiction any time the bureau becomes aware of a change of status or change of residence of a registered sex offender; and of a registered offender's intent to reside in an agency's jurisdiction. (3-23-22)

05. Notification to Other Jurisdictions. Within one (1) working day of receiving notification that a registered sex offender is moving to another jurisdiction, the bureau will notify the receiving jurisdiction's designated sex offender registration agency of the move by mail or electronic means. (3-23-22)

06. Expungement of Central Registry Information. (3-23-22)

a. Upon receipt of a certified copy of a death certificate or official government documentation recording the death of a person registered with the central registry, the bureau will expunge all records concerning the person from the central registry. (4-6-23)

b. Upon receipt of a duly attested copy of a pardon issued by the governor or official pardoning body of the jurisdiction where the conviction was entered and then reported to the central registry, the bureau will expunge all records concerning the conviction from the central registry. If the pardoned person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. (4-6-23)

c. Upon receipt of a duly attested document from a court clerk that a conviction previously reported to the central registry has been reversed by the court of conviction, the bureau will expunge all records concerning the conviction from the central registry, provided that the person has no other conviction requiring registration. (3-23-22)

d. Expungement of a record will not occur in cases where a court has ordered a dismissal for a withheld judgment. (3-23-22)

e. Pursuant to Section 18-8310(5), Idaho Code, if a person is exempted from the registration requirement by court order, the bureau will expunge all records and references concerning the offender from the central registry. (3-23-22)

f. "Any periods of supervised release, probation, or parole" in Section 18-8310(1)(a), Idaho Code, means those periods resulting from the underlying conviction requiring registration. (4-6-23)

07. Determination of Substantially Equivalent or Similar Crime. (3-23-22)

a. A person convicted of a sex offense in another jurisdiction and who moves to, works in, or becomes a student in Idaho may be required to register as a sex offender in Idaho pursuant to Title 18, Chapters 83 or 84, Idaho Code. (3-23-22)

b. The bureau shall determine if a person's out-of-jurisdiction conviction is substantially equivalent or similar to an Idaho sex related offense, as defined by Idaho's Criminal Code, for the purposes of requiring a person to register in Idaho. (3-23-22)

c. The bureau may make all substantially equivalent determinations using the police report (of the incident related to the sex offense), indictment or information or other lawful charging document, judgment or order (of sex offense conviction), psychosexual evaluation report, and order of probation. (3-23-22)

d. If a person seeks a substantially equivalent determination by the bureau before moving to, working in, or becoming a student in Idaho, that person shall provide a completed application and attach certified copies of all above-named documents to the bureau. (3-23-22)

e. The bureau shall issue a substantially equivalent determination within sixty (60) days upon receipt of a completed application and the required documents. (3-23-22)

- f.** The bureau’s determination is a declaratory ruling as defined by Chapter 52, Title 67, Idaho Code.
(3-23-22)
- g.** Judicial review of the bureau's determination will be made in accordance with Chapter 52, Title 67,
Idaho Code. (3-23-22)
- 013. -- 999. (RESERVED)**

IDAPA 13 – IDAHO FISH AND GAME COMMISSION
ESTABLISHING SEASONS AND LIMITS FOR HUNTING, FISHING, AND TRAPPING IN IDAHO
DOCKET NO. 13-0000-2500P5
NOTICE OF ADOPTED / AMENDED PROCLAMATIONS FOR CALENDAR YEAR 2025

AUTHORITY: As authorized by Section 36-104, Idaho Code, and in compliance with Sections 36-105(3), Idaho Code, the Commission adopts proclamations establishing seasons and limits for hunting, fishing, and trapping in Idaho.

AVAILABILITY OF OFFICIAL PROCLAMATIONS: Hunters, anglers, and trappers are advised to consult the text of the Commission’s official proclamation before hunting, fishing, or trapping. All proclamations are available on-line at <https://idfg.idaho.gov/rules>, with print versions available at Idaho Department of Fish and Game offices and license vendors.

DESCRIPTIVE SUMMARY AND PUBLIC MEETING SCHEDULE: The Commission meeting schedule and meeting agendas are available on-line at <https://idfg.idaho.gov/about/commission/schedule>, with opportunities for public comment generally scheduled at its January, March, May, July, and November meetings.

Information for Commission proclamations for calendar year 2025 was initially published in the Idaho Administrative Bulletin, February 5, 2025, Bulletin [Volume 25-2, pages 10-11](#).

At a July 17, 2025, quarterly meeting the Commission took the following proclamation actions:

1. Adopted a proclamation setting the 2025 sage-grouse hunting season and tag limits.
2. Adopted limits for total nonresident participation for 2026 for general hunts in certain elk zones and deer units, set aside outfitter tags, and allocated tags for outfitted hunter use in these zones and units for 2026.
3. Amended its 2025/ 2026 big game proclamation by modifying an elk controlled hunt area and implementing mandatory Chronic Wasting Disease sampling of deer in Unit 63A.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proclamations, contact Owen Moroney at (208) 334-3715.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.10 – IDAHO REPORTABLE DISEASES

DOCKET NO. 16-0210-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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(s) 39-605, 39-906, 39-1003, 39-1603, 39-4505(2), 54-1119, 56-1003, and 56-1005, 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:

Under [Executive Order 2020-01: Zero-Based Regulation](#), the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter to streamline or simplify this rule language. There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 4th, 2025, Idaho Administrative Bulletin, [Vol. 25-6, pages 35 through 87](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is not anticipated to be a negative fiscal impact exceeding \$10,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Larsen at DHWRules@dhw.idaho.gov.

DATED this 8th day of July, 2025.

Jared Larsen
Chief, Legislative and Regulatory Affairs
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
DHWRules@dhw.idaho.gov

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.27 – IDAHO RADIATION CONTROL RULES

DOCKET NO. 16-0227-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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(s) 56-1003, Idaho Code, and 56-1007, 56-1041, 56-1043, 56-1044, and 56-1046.

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:

Under [Executive Order 2020-01: Zero-Based Regulation](#), the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter to streamline or simplify this rule language. There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 4th, 2025, Idaho Administrative Bulletin, [Vol. 25-6, pages 88 through 100](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is not anticipated to be a negative fiscal impact exceeding \$10,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Larsen at DHWRules@dhw.idaho.gov.

DATED this 8th day of July, 2025.

Jared Larsen
Chief, Legislative and Regulatory Affairs
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
DHWRules@dhw.idaho.gov

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.21 – DEVELOPMENTAL DISABILITIES AGENCIES (DDA)

DOCKET NO. 16-0321-2501 (CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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(s) 39-4605, 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 chapter is a consolidation of IDAPA 16.03.21 (Developmental Disabilities Agencies) and IDAPA 16.04.17 (Residential Habilitation Agencies). Consolidating these two chapters will assist the Department and providers with efficiency and consistency while reducing regulatory burden and ensure the health and safety of the vulnerable individuals these organizations serve. This chapter includes requirements for Adult Residential Care Facilities that provides residential services to adult individuals with developmental disabilities.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the June 4th, 2025, Idaho Administrative Bulletin, [Vol. 25-6, pages 101 through 125](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is not anticipated to be a negative fiscal impact exceeding \$10,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Larsen at DHWRules@dhw.idaho.gov.

DATED this 8th day of July, 2025.

Jared Larsen
Chief, Legislative and Regulatory Affairs
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
DHWRules@dhw.idaho.gov

DOCKET NO. 16-0321-2501 - ADOPTION OF PENDING RULE

Substantive changes have been made in the pending rule.
Italicized red text that is double underscored indicates
amendments to the proposed text as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 25-6, June 4, 2025, pages 101 through 125.

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and final approval by the 2026 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 16-0321-2501
(Only those sections or subsections that have changed from the original proposed
text are printed in this Bulletin following this notice.)

**16.03.21 – DEVELOPMENTAL DISABILITIES AGENCIES (DDA)
RESIDENTIAL HABILITATION AGENCIES, AND ADULT RESIDENTIAL CARE FACILITIES**

010. DEFINITIONS -- A THROUGH Z.

For the purposes of this chapter of rules, the following terms apply. (3-17-22)

~~01. ADA. The “Americans with Disabilities Act Accessibility Guidelines,” under 28 CFR Part 36, Appendix A. (3-17-22)~~

~~02. Center Based Services. Services provided in a location under control of the agency through ownership or lease agreement that meets requirements under Section 400 of these rules. (3-17-22)~~

01. Abuse. The non-accidental act of sexual, physical, verbal, or mental mistreatment, or injury of a participant through the action or inaction of another individual. ()

02. Adult Residential Care Facility. A facility that provides any service or group of services which provide care to the developmentally disabled on an inpatient or residential basis. ()

03. Advocate. An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of developmentally disabled, mentally ill, or elderly participants. ()

034. Communicable Disease. A disease that may be transmitted from one (1) person or animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means that may result in infection, illness, disability, or death. (3-17-22)

045. Deficiency. A determination of non-compliance with a specific rule or part of rule. (3-17-22)

056. Department. The Idaho Department of Health and Welfare. (3-17-22)

~~06. Developmental Disability. A developmental disability, defined in Section 66-402, Idaho Code.~~

(3-17-22)

07. Developmental Disability Agency (DDA). A business entity, ~~also known as “agency,”~~ that meets the definition of a developmental disabilities facility provided in Section 39-4604(3), Idaho Code, that is certified by the Department to provide services to eligible individuals ~~with developmental disabilities under these rules.~~
(3-17-22)()

08. Exploitation. An action that may include, but is not limited to, the unjust or improper use of a vulnerable participant’s financial power of attorney, funds, property, or resources by another person for profit or advantage.
()

082. Health Care Professional. An individual licensed to provide health care within their respective discipline and scope of practice.
(3-17-22)

09. ~~Implementation Plan.~~ ~~A plan that details how goals from the plan of service will be accomplished.~~
(3-17-22)

10. ~~Natural Setting.~~ ~~The environment where an activity or behavior naturally occurs that is typical for peers of the participant’s age, such as the home and community, where the participant lives or participates in activities, and in the service environment indicated.~~
(3-17-22)

10. Immediate Jeopardy. A level of non-compliance with one (1) or more requirements in this chapter that has caused, or is likely to cause, serious injury, harm, impairment, or death to a participant that requires an immediate response.
()

11. Maladaptive Behavior. Any behavior that significantly interferes with participant care or presents a danger to self or others.
()

12. Medication. Any substance or drug used to treat a disease, condition, or symptoms that may be taken orally, injected, or used externally, and is available through prescription or over the counter.
()

13. Neglect. The failure to provide food, clothing, shelter, or medical care reasonably necessary to sustain the life and health of a vulnerable adult as defined in Section 18-1505, Idaho Code.
()

14. Participant. An individual receiving services through a DDA, Residential Habilitation Agency or Adult Residential Care Facility.
(3-17-22)()

15. Residential Habilitation. Services consisting of an integrated array of individually tailored services and supports furnished to an eligible participant that are designed to assist them to reside successfully in their own home. Services include personal care services, and skill training. Individuals who provide residential habilitation services must be employed by a residential habilitation agency.
()

16. Physical Restraint. Any manual hold or mechanical device that the participant cannot remove easily, and which restricts the free movement of or normal functioning of any portions of a participant’s body.
()

127. Plan of Service. An initial plan, annual plan, or addendum that identifies all services, ~~supports, or both, if applicable~~ offered.
(3-17-22)()

138. Repeat Deficiency. ~~A violation or deficiency found on a resurvey or revisit to a DDA that was also found during the previous survey or visit~~ The Department has found an organization is out of compliance with a rule and received a citation on two (2) consecutive surveys.
(3-17-22)()

19. Substantial Compliance. A level of compliance that has not or will not cause significant injury that requires medical attention to a participant.
()

1420. Survey. A review conducted by the Department to determine compliance with statutes and rules.

(3-17-22)

21. Time Out. A separate unlocked room or location, that is supervised, that is used to remove a participant from an activity that may be triggering or reinforcing maladaptive behavior. ()

(BREAK IN CONTINUITY OF SECTIONS)

511. STANDARDS FOR A DDA CENTER AND ADULT RESIDENTIAL CARE FACILITY.

01. Environment. The facility must be designed and equipped to meet the needs of each participant including sufficient space, adaptive equipment, lighting, and noise control. Facilities providing residential care must provide participants with sleeping rooms including furnishings, such as a dresser and bed, and be safe and in good repair. ()

02. Construction Changes. For changes of occupancy, modifications, additions, or renovations to existing buildings, the facility must submit certificate of occupancy to the Department for approval prior to admitting participants. ()

03. Fire Safety Standards. Locations must maintain the following records: ()

a. A copy of an annual local fire authority inspection including any necessary corrective actions; ()

b. Documentation of quarterly fire drills, including date, time, duration, names of participants and staff involved, and any resulting corrective action(s); and ()

c. Documentation that at least two (2) times each year fire drills included a complete evacuation of the building. ()

04. Environment Safety Standards. ()

a. Provide fences, guards, or railings to protect participants on the premises where natural or man-made hazards are present; ()

b. Portable heating devices must be approved by the local fire authority; ()

c. Properly label and store all hazardous or toxic substances under lock and key; ()

d. Maintain water temperatures in areas accessed by participants at one hundred twenty degrees Fahrenheit (120°F) or below; ()

e. Have a telephone on the premises with emergency numbers available; and ()

f. Evacuation plans must be posted throughout the center and indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of the building. ()

05. Food Safety and Nutrition. ()

a. Adult residential care facilities must: ()

i. Meet the standards in IDAPA 16.02.19. Compliance is verified through inspection by the local District Health Department. ()

ii. Provide three (3) daily balanced meals in appropriate intervals. ()

iii. Menu must be planned, approved, signed and dated by a registered dietician. Menus must be maintained on file for sixty (60) days and include any substitutions. ()

iv. Accommodations must be made to a participant with special medical or religious dietary needs. ()

b. Refrigerators and freezers used to store participant foods will be maintained at or below forty-one degrees Fahrenheit (41°F), and ten degrees Fahrenheit (10°F) respectively; and ()

c. When medicines requiring refrigeration are stored in a food refrigerator, medicines must be stored in a package and kept inside a covered, leak-proof container that is identified as a container for the storage of medicines. ()

06. Housekeeping and Maintenance Services. The organization must meet the following: ()

a. The center must be clean, safe, and kept in good repair; ()

b. Ensure the building is free from infestations of insects, rodents, and other pests; and ()

c. Maintain the temperature and humidity of the building within a normal comfort range by heating, air conditioning, or other means. ()

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.22 – RESIDENTIAL ASSISTED LIVING FACILITIES

DOCKET NO. 16-0322-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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 39-3305 and 39-3358, 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:

Under [Executive Order 2020-01: Zero-Based Regulation](#), the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter to streamline or simplify this rule language.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the June 4th, 2025, Idaho Administrative Bulletin, [Vol. 25-6, pages 126 through 174](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is not anticipated to be a negative fiscal impact exceeding \$10,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Larsen at DHWRules@dhw.idaho.gov.

DATED this 8th day of July, 2025.

Jared Larsen
Chief, Legislative and Regulatory Affairs
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
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DOCKET NO. 16-0322-2501 - ADOPTION OF PENDING RULE

Substantive changes have been made in the pending rule.
Italicized red text that is *double underscored* indicates
amendments to the proposed text as adopted in the pending rule.

The text of the proposed rule was published in the Idaho Administrative Bulletin,
Volume 25-6, June 4, 2025, pages 126 through 174.

This rule has been adopted as a pending rule by the Agency and is now awaiting
review and final approval by the 2026 Idaho State Legislature.

THE FOLLOWING IS THE TEXT OF THE PENDING RULE FOR DOCKET NO. 16-0322-2501
(Only those sections or subsections that have changed from the original proposed
text are printed in this Bulletin following this notice.)

16.03.22 – RESIDENTIAL ASSISTED LIVING FACILITIES

010. DEFINITIONS AND ABBREVIATIONS ~~A THROUGH E.~~

- ~~01. Abuse. A non-accidental act of sexual, physical, or mental mistreatment or injury of a resident through the action or inaction of another individual. (3-15-22)~~
- ~~02. Accident. An unexpected, unintended event that can cause a resident injury. (3-15-22)~~
- ~~03. Activities. All organized and directed social and rehabilitative services a facility provides, arranges, or cooperates with. (3-15-22)~~
- ~~04. Activities of Daily Living. Self care actions necessary to sustain an individual in daily living, including bathing, dressing, toileting, grooming, eating, communicating, and managing medications. (3-15-22)~~
- ~~05. Administrator. An individual licensed by the Idaho Bureau of Occupational Licenses as a Residential Assisted Living Facility Administrator. (3-15-22)~~
- ~~06. Administrator's Designee. A person authorized in writing to act in the absence of the administrator who is knowledgeable of facility operations, the residents and their needs, emergency procedures, the location and operation of emergency equipment, and how the administrator can be reached in the event of an emergency. (3-15-22)~~
- ~~07. Adult. A person who has reached eighteen (18) years of age. (3-15-22)~~
- ~~08.1. Advance Directive. A written instruction, such as a living will or durable power of attorney for health care, recognized under state law, whether statutory or as recognized by the courts of the State, related to the provision of medical care when the individual is unable to communicate. (3-15-22)~~
- ~~09. Advocate. An authorized or designated representative of a program or organization operating~~

~~under federal or state mandate to represent the interests of a population group served by a facility. (3-15-22)~~

~~**10. Ambulatory Person.** A person who, unaided by any other person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs. (3-15-22)~~

~~**11. Assessment.** Information gathered that identifies resident strengths, weaknesses, risks, and needs, to include functional, social, medical, and behavioral needs. (3-15-22)~~

~~**12. Authentication.** The process or action of proving or showing authorship to be true, genuine, or valid. (3-15-22)~~

~~**13. Authorized Provider.** An individual who is a nurse practitioner, clinical nurse specialist, or physician assistant. (3-15-22)~~

1402. Behavior Plan. A written plan that decreases the frequency, duration, or intensity of maladaptive behaviors, and increases the frequency of adaptive behaviors, person-centered document outlining strategies to address and modify a specific behavior, developed based on a functional assessment that identifies the underlying cause of the behavior, and includes proactive steps to prevent the behavior, teach alternate appropriate behaviors, and provide reinforcement for positive interactions. (3-15-22)()

~~**1503. Call System.** A signaling system whereby a resident can contact staff directly from their sleeping room, toilet room, and bathing area. The system may be voice communication, or an audible or visual signal, and may include wireless technology. The call system cannot be configured in such a way as to breach a resident's right to privacy at the facility, including in the resident's living quarters, in common areas, during medical treatments, while receiving other services, in written and telephonic communications, or in visits with family, friends, advocates, and resident groups. (3-15-22)()~~

~~**16. Chemical Restraint.** A medication used to control behavior or to restrict freedom of movement and is not a standard treatment for the resident's condition. (3-15-22)~~

~~**1704. Cognitive Impairment.** When a person experiences loss of short or long-term memory, orientation to person, place, or time, safety awareness, or loses the ability to make decisions that affect everyday life. (3-15-22)~~

~~**18. Complaint.** A formal expression of dissatisfaction, discontent, or unhappiness by, or on behalf of, a resident concerning the care or conditions at the facility. This expression could be oral, in writing, or by alternative means of communication. (3-15-22)~~

~~**1905. Complaint Investigation.** A survey to investigate the validity of allegations of noncompliance with applicable state requirements. Allegations will be investigated by the Licensing Agency as described in Section 39-3355, Idaho Code. (3-15-22)~~

~~**20. Core Issue.** A core issue is any one (1) of the following: (3-15-22)~~

~~**a.** Abuse; (3-15-22)~~

~~**b.** Neglect; (3-15-22)~~

~~**c.** Exploitation; (3-15-22)~~

~~**d.** Inadequate care; (3-15-22)~~

~~**e.** A situation in which the facility has operated for more than thirty (30) days without a licensed administrator overseeing the day to day operations of the facility; (3-15-22)~~

~~**f.** Inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system; or (3-15-22)~~

- ~~g. Surveyors denied access to records, residents, or facilities. (3-15-22)~~
- 2106. Criminal Offense.** Any crime as defined in Section 18-111, Idaho Code, 18 U.S.C. Section 4B1.2(a), and 18 U.S.C. Sections 1001 through 1027. (3-15-22)
- ~~22. Deficiency. A determination of noncompliance with a specific rule or part of a rule. (3-15-22)~~
- 2307. Dementia.** A chronic deterioration of intellectual function and other cognitive skills severe enough to interfere with the ability to perform activities of daily living. (3-15-22)
- ~~24. Department. The Idaho Department of Health and Welfare. (3-15-22)~~
- 2508. Developmental Disability.** A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before twenty-two (22) years of age ~~and:~~ (3-15-22)()
- ~~a. Is attributable to an impairment, such as an intellectual disability, cerebral palsy, epilepsy, autism, or other conditions found to be closely related or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; (3-15-22)~~
- ~~b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self care, receptive and expressive language, learning, mobility, self direction, capacity of independent living, or economic self sufficiency; and (3-15-22)~~
- ~~c. Reflects the need for a combination and sequence of special, interdisciplinary or direct care, treatment, or other services which are of life-long or extended duration, and individually planned and coordinated. (3-15-22)~~
- 2609. Direct Resident Access.** In-person access with any resident who resides at the facility, or any access to the residents' personal belongings or information. (3-15-22)
- ~~27. Director. The Director of the Idaho Department of Health and Welfare or their designee. (3-15-22)~~
- ~~28. Electronic Signature. The system for signing electronic documents by entering a unique code or password that verifies the identity of the person signing and creates an individual "signature" on the record. (3-15-22)~~
- 2910. Elopement.** When a resident who is cognitively, physically, mentally, emotionally, or chemically impaired, physically leaves the facility ~~premises~~ **property** or the secured unit or yard without personnel's knowledge. (3-15-22)()
- ~~30. Exit Conference. A meeting with the facility administrator or designee to: (1) provide review, discussion, and written documentation of non-core issues, and (2) to provide preliminary findings of core issues. (3-15-22)~~
- ~~31. Exploitation. The misuse of a resident's funds, property, resources, identity, or person for profit or advantage. This includes charging a resident for services or supplies not provided or disclosed in the written admission agreement and staff accepting gifts or money for extra services. (3-15-22)~~
- 011. DEFINITIONS AND ABBREVIATIONS F THROUGH N.**
- ~~01. Follow Up Survey. A survey conducted to confirm that the facility is in compliance and has the ability to remain in compliance. (3-15-22)~~
- ~~02. Governmental Unit. The state, any county, any city, or any department, division, board, or other agency. (3-15-22)~~
- 0311. Hourly Adult Care.** Nonresident daily services and supervision provided by a facility to

- individuals who are in need of supervision outside of their personal residence(s) for a portion of the day. (3-15-22)
- ~~04. Immediate Danger.~~ Any resident is subject to an imminent or substantial danger. (3-15-22)
- ~~05. Inadequate Care.~~ When a facility fails to provide the services required to meet the terms of the Negotiated Service Agreement, or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services, a safe living environment, engages in violations of resident rights, or takes residents who have been admitted in violation of the provisions of Section 152 of these rules. (3-15-22)
- ~~0612. Incident.~~ An event that can cause a resident injury. (3-15-22)
- ~~07. Independent Mobility.~~ A person's ability to move about freely of their own choice with or without the assistance of a mobility device such as a wheelchair, cane, crutches, or walker. (3-15-22)
- ~~0813. Legal Guardian or Conservator.~~ A court-appointed individual designated to manage the affairs or finances of another person who has been found to be incapable of handling their own affairs. (3-15-22)
- ~~09. License.~~ A permit to operate a residential assisted living facility. (3-15-22)
- ~~10. Licensing Agency.~~ The Residential Assisted Living Facilities Program, a unit of the Division of Licensing and Certification within the Department of Health and Welfare, that conducts inspections and surveys of residential assisted living facilities and issues licenses based on compliance with this chapter of rules, in which "Residential Assisted Living Facilities Program" and "Licensing Agency" are synonymous. (3-15-22)
- ~~14. Maladaptive Behavior.~~ Any behavior that interferes with resident care, infringes on any resident's rights, or presents a danger to the resident or others. Involuntary muscle movements are not considered maladaptive behaviors. (3-15-22)()
- ~~125. Medication.~~ Any substance used to treat a disease, condition, or symptom, which may be taken orally, injected, or used externally, and is available through prescription or over-the-counter. (3-15-22)
- ~~136. Medication Administration.~~ The process where a prescribed medication is given by a licensed nurse to a resident through one (1) of several routes. (3-15-22)()
- ~~147. Medication Assistance.~~ The process whereby a non-licensed care provider is delegated tasks by a licensed nurse, to aid a person who cannot independently self-administer medications. See IDAPA 24.34.01, "Rules of the Idaho Board of Nursing," Section 010. (3-15-22)()
- ~~158. Mental Disorders.~~ Health conditions that are characterized by alterations in thinking, mood, behavior, or some combination thereof, that are all mediated by the brain and associated with distress or impaired functioning. (3-15-22)
- ~~169. Mental Illness.~~ Refers collectively to all diagnosable mental disorders. (3-15-22)
- ~~17. Neglect.~~ Failure to provide food, clothing, shelter, or medical care necessary to sustain the life and health of a resident. (3-15-22)
- ~~18. Negotiated Service Agreement.~~ The plan reached by the resident or their representative and the facility which outlines services to be provided and the obligations of the facility and the resident. (3-15-22)
- ~~19. Non-Core Issue.~~ Any finding of deficient practice that is not a core issue. (3-15-22)
- ~~20. Nursing Assessment.~~ Information gathered related to a resident's health or medical status that has been reviewed, signed, and dated by a licensed registered nurse, as described in Section 305 of these rules. (3-15-22)()

~~012. DEFINITIONS AND ABBREVIATIONS O THROUGH Z.~~

~~0121.~~ **Outside Services.** Services provided to a resident by someone that is not a member of facility personnel. (3-15-22)

~~0122.~~ **Owner.** Any person or entity having legal ownership of the facility as an operating business, regardless of who owns the real property. (3-15-22)

~~03.~~ **Personal Assistance.** The provision by the staff of the facility of one (1) or more of the following services: (3-15-22)

~~a.~~ Assisting the resident with activities of daily living; (3-15-22)

~~b.~~ Arranging for outside services; (3-15-22)

~~e.~~ Being aware of the resident's general whereabouts; or (3-15-22)

~~d.~~ Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety, and well-being. (3-15-22)

~~0423.~~ **Personnel.** Paid individuals assigned the responsibility of providing care, supervision, and services to the facility and its residents. In this chapter of rules, "personnel" and "staff" are synonymous. (3-15-22)

~~05.~~ **Physical Restraint.** Any device or physical force that restricts the free movement of, normal functioning of, or normal access to, a portion or portions of an individual's body, except for the temporary treatment of a medical condition, such as the use of a cast for a broken bone. (3-15-22)

~~0624.~~ **Portable Heating Device.** Any device designed to provide heat on a temporary basis that is not designed as part of a building's heating system, is not permanently affixed to the building, and, if electrical, is not hardwired to the building's electrical service. This does not include the use of therapeutic devices such as heating pads, heated mattress pads, and electric blankets, which require a physician or authorized provider's order. (3-15-22)

~~0725.~~ **PRN.** Indicates that a medication or treatment prescribed by a medical professional to an individual may be given as needed. (3-15-22)

~~08.~~ **Pressure Injury.** Any lesion caused by unrelieved pressure that results in damage to the underlying tissue(s). (3-15-22)

~~0926.~~ **Provisional License.** A license which may be issued to a facility not in compliance with the rules pending the satisfactory correction of all deficiencies. (3-15-22)

~~1027.~~ **Publicly Funded Program.** Any program funded in whole, or in part, by an appropriation of the U.S. Congress, the Idaho Legislature, or other governmental body. (3-15-22)

~~1128.~~ **Punishment.** The use of an adverse consequence with a resident, the administration of any noxious or unpleasant stimulus, or deprivation of a resident's rights or freedom. (3-15-22)

~~1229.~~ **Relative.** A person related by birth, adoption, or marriage. (3-15-22)

~~1330.~~ **Repeat Deficiency.** A deficiency found on a licensure survey, complaint investigation, or follow-up survey that was also found on the previous survey. (3-15-22)

~~1431.~~ **Reportable Incident.** A situation when a facility is required to report information to the Residential Assisted Living Facilities Program, including: (3-15-22)

~~a.~~ Any resident injury of unknown origin (i.e., an injury, the source of which was not observed by any person and could not be explained by the resident); (3-15-22)

- ~~ba.~~ Any resident injury of significant or suspicious nature (i.e., an injury that includes severe bruising, fingerprint bruises, laceration(s) larger than a minor skin tear, sprains, or fractured bones); (3-15-22)
- ~~e.~~ Resident injury resulting from accidents involving facility sponsored transportation (i.e., falling from the facility's van lift, a wheelchair belt coming loose during transport, or a collision); (3-15-22)
- ~~db.~~ Resident elopement of any duration; (3-15-22)
- ~~ec.~~ Any significant injury resulting from a resident-to-resident incident; (3-15-22)()
- ~~fd.~~ An incident that results in the resident's need for assessment or treatment ~~outside of the facility~~ at a hospital; or (3-15-22)()
- ~~ge.~~ An incident that results in the resident's death. (3-15-22)
- ~~15.~~ **Resident.** An adult, other than the owner, administrator, their immediate families, or employees, who lives in a residential assisted living facility. (3-15-22)
- ~~16.~~ **Residential Assisted Living Facility.** A facility or residence, however named, licensed in the state of Idaho, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals, and lodging to three (3) or more adults not related to the owner. (3-15-22)
- ~~17.~~ **Room and Board.** Lodging, meals, and utilities. (3-15-22)
- ~~18~~**32.** **Scope.** The frequency or extent of the occurrence of a deficiency in a facility. (3-15-22)
- ~~19~~**33.** **Self-Administration of Medication.** The act of a resident taking a single dose of their own medication from a properly labeled container and placing it internally in, or externally on, their own body as a result of an order by an authorized provider. (3-15-22)
- ~~20.~~ **Story.** A level of rooms in a building. (3-15-22)
- ~~21.~~ **Substantial Compliance.** The status of a facility that has no core issue deficiencies. (3-15-22)
- ~~22.~~ **Substantial Evening Meal.** An offering of three (3) or more menu items at one time, one (1) of which is a high-quality protein such as meat, fish, eggs, or cheeses. The meal should represent no less than twenty percent (20%) of the day's total nutritional requirements. (3-15-22)
- ~~23.~~ **Supervision.** A critical watching and directing activity which provides protection, guidance, knowledge of the resident's general whereabouts, and assistance with activities of daily living. The administrator is responsible for providing appropriate supervision based on each resident's Negotiated Service Agreement or other legal requirements. (3-15-22)
- ~~24~~**34.** **Survey.** A review conducted by a surveyor to determine compliance with statutes and rules. ~~There are two (2) components to a survey: (1) health care and (2) fire, life, and safety.~~ (3-15-22)()
- ~~25~~**35.** **Surveyor.** A person authorized by the Department to conduct surveys or complaint investigations to determine compliance with statutes and rules. (3-15-22)
- ~~26~~**36.** **Therapeutic Diet.** A diet ordered by a physician or authorized provider, including a licensed registered dietician, as part of treatment for a clinical condition or disease, ~~to eliminate or decrease specific nutrients in the diet (e.g., sodium), to increase specific nutrients in the diet (e.g., potassium), or to provide food the resident is able to eat (e.g., a mechanically altered diet).~~ (3-15-22)()
- ~~27~~**37.** **Toxic Chemical.** A substance that is hazardous to health if inhaled, ingested, or absorbed through skin. (3-15-22)

- ~~28~~**38.** **Traumatic Brain Injury (TBI).** An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment. The term applies to open or closed-head injuries resulting in impairments in one (1) or more areas. (3-15-22)
- ~~29~~**39.** **Unlicensed Assistive Personnel (UAP).** Staff, with or without formal credentials, employed to perform nursing care services under the direction and supervision of licensed nurses. (3-15-22)
- ~~30~~**40.** **Variance.** Permission by the Department to do something contrary to rule. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

330. REQUIREMENTS FOR FACILITY RECORDS.

The facility must ~~maintain complete, accurate, and authentic records which are preserved in a safe location protected from fire, theft, and water damage~~ develop policies and procedures in accordance with Sections 39-3316, Idaho Code, for a minimum of three (3) years. (3-15-22)()

- 01. Paper Records.** All paper records must be recorded legibly in ink. (3-15-22)
- ~~02. Electronic Records.~~ ~~Electronic records policies and procedures must be developed and implemented that specify which records will be maintained electronically. Policy development and implementation must ensure:~~ (3-15-22)
- ~~a.~~ ~~The facility must print and provide paper copies of electronic records upon the request of the resident, their legal guardian or conservator, advocacy and protection agencies, and the Department.~~ (3-15-22)
- ~~b.~~ ~~Security measures must be taken to protect the use of an electronic signature by anyone other than the person to which the electronic signature belongs and to protect that person's identity. The policy must specify how passwords are assigned, and the frequency they are changed.~~ (3-15-22)
- ~~c.~~ ~~Security measures must be taken to ensure the integrity of any electronic documentation.~~ (3-15-22)
- ~~03. Record Confidentiality.~~ The facility must ~~safeguard confidential information against loss, destruction, and unauthorized use~~ comply with the Health Insurance Portability and Accountability Act (HIPAA). (3-15-22)()
- ~~04. Resident Care Records.~~ ~~An~~ Each resident must have an individual care record ~~must be maintained for each resident with all entries kept current.~~ Entries must be documented during each shift and completed by the person providing the care, including the date, time, name, and title of the person making the entry. (3-15-22)()
- ~~a.~~ ~~Entries must include the date, time, name, and title of the person making the entry. Staff must sign each entry made by them during their shift.~~ (3-15-22)
- ~~ba.~~ ~~Care records of all current residents~~ The plan of care must be available to staff at all times. and include: (3-15-22)()
- ~~c.~~ ~~In addition to an NSA, as described in Section 320 of these rules, each care record must include documentation of the following:~~ (3-15-22)
- ~~i.~~ ~~Comprehensive assessments, as described in Section 319 of these rules;~~ (3-15-22)
- ~~ii.~~ ~~Current medications, treatments, and diet prescribed, all signed and dated by the ordering physician or authorized provider.~~ A copy of written, signed, and dated medication and treatment orders; (3-15-22)()
- ~~iii.~~ ~~Treatments, wound care, assistance with medications, and any other delegated nursing tasks.~~

~~Documentation must include any~~ PRN medication use (if applicable), including the reason for taking the medication and the efficacy; (3-15-22)()

~~iv~~ii. ~~Times the NSA is not followed, such as during refusal of care or services. This includes any time a medication is refused by a resident, not taken by a resident, not given to a resident, and the reason for the omission~~Documentation when the resident refuses care or services or the resident missed taking prescribed medication including the reason; (3-15-22)()

~~v.~~ ~~Calls to the resident's physician or authorized provider, including the reason for each call and the outcome;~~ (3-15-22)

~~vi~~iv. Notification to the facility nurse of changes in the resident's physical or mental condition; (3-15-22)

~~vii.~~ Nursing assessments, ~~as described in Section 305 of these rules;~~ (3-15-22)()

~~viii.~~ The results of any physician or authorized provider visits, including phone calls to providers including the reason and outcome; (3-15-22)()

~~ix~~vii. Copies of all signed and dated care plans prepared by outside service agencies; (3-15-22)

~~x~~viii. Notes regarding outside services and care provided to the resident, such as home health, hospice, or physical therapy; (3-15-22)

~~xi~~ix. Unusual events such as incidents, accidents, or altercations, and the facility's response; and (3-15-22)

~~xii.~~ ~~When a resident refuses medical treatment or physician's orders, the facility must document the resident and their legal guardian have been informed of the consequences of the refusal and the resident's physician or authorized provider has been notified of the refusal~~Documentation the physician, authorized, and legal representative provider has been contacted when a resident consistently refuses medical treatment or physician orders. (3-15-22)()

~~05. Admission Records.~~ As described in Section 39-3315, Idaho Code, resident admission documentation must include: (3-15-22)

~~a.~~ The resident's preferred providers and contact information, including physician or authorized provider, optometrist, dentist, pharmacy, and outside service providers. (3-15-22)

~~b.~~ Results of the resident's last history and physical examination, performed by a physician or authorized provider. The examination must have been conducted no more than six (6) months prior to admission. (3-15-22)

~~c.~~ Physician or authorized provider orders that are current, signed, and dated, including a list of medications, treatments, diet, and any limitations. (3-15-22)

~~d.~~ A written admission agreement that is signed and dated by the administrator and the resident or their legal guardian or conservator, and meets the requirements of Section 216 of these rules. (3-15-22)

~~e.~~ If separate from the admission agreement, a copy of the payment schedule and fee structure signed and dated by the resident or their legal guardian or conservator. (3-15-22)

~~f.~~ If the facility manages the resident's funds, a signed and dated written agreement between the facility and the resident or their legal guardian or conservator that specifies the terms. (3-15-22)

~~g.~~ A signed copy of the resident's rights, as described in Sections 550 and 560 of these rules, or a signed and dated statement that the resident or their legal guardian or conservator has read and understands their

~~rights in a residential assisted living facility. (3-15-22)~~

~~h. An interim care plan signed by the resident, responsible party, and the facility, completed prior to, or on the day of, admission. (3-15-22)~~

~~i. Documentation indicating the resident has been informed of the facility's emergency procedures, including resident responsibility. (3-15-22)~~

064. Behavior Documentation. For residents who exhibit maladaptive behaviors, ~~behavior management records must be maintained in the resident record, including~~ the facility must maintain documentation of the following: (3-15-22)()

a. An assessment of maladaptive behaviors, ~~as described in Section 319 of these rules.~~ (3-15-22)()

b. A behavior plan that includes ~~at least one (1) intervention specific to each maladaptive behavior.s;~~ (3-15-22)()

i. Interventions must be the least restrictive possible; and must include the date and time of each maladaptive behavior, a description of the behavior, the interventions implemented and the effectiveness of each intervention. (3-15-22)()

ii. ~~Each intervention must be reviewed as appropriate, based on the severity of the behavior, to evaluate the effectiveness and continued need for the intervention. (3-15-22)~~

~~e. Ongoing tracking of behaviors, including documentation of the date and time each maladaptive behavior was observed, the specific behavior that was observed, what interventions were used in response to the maladaptive behavior, and the effectiveness of each intervention. (3-15-22)~~

075. Discharge Records. Resident discharge documentation must include: (3-15-22)

a. ~~When the discharge is involuntary, the facility's efforts to resolve the situation and a copy of the discharge notice, signed and dated by the resident and the facility. If the resident refuses, or is unable to sign the notice, the facility must maintain evidence that the notice was delivered to the resident and the responsible party.~~ A copy of the written notice of discharge if applicable; (3-15-22)()

b. The date and the location where the resident ~~is~~ was discharged; and (3-15-22)()

c. The disposition of the resident's belongings. (3-15-22)

086. Additional Resident Records. The facility must also maintain the following for each resident: (3-15-22)

a. A record of all resident personal property ~~that the resident has entrusted to the facility, including documentation to identify and track the property to ensure that personal items are kept safe and used only by the resident to which the items belong~~ with a value of more than fifty dollars (\$50); and (3-15-22)()

b. ~~Any~~ A record of complaints or grievances ~~voiced by the resident~~ including the date received, the investigation ~~with and the~~ outcome, ~~and the response to the resident.~~ (3-15-22)()

097. Resident Admission and Discharge Register. The facility must maintain an admission and discharge register listing the name of each resident, the date admitted, and the date discharged. ~~The admission and discharge register must be produced as a separate document, apart from resident records, and kept current.~~ (3-15-22)()

10. Hourly Adult Care Documentation. A log of those who have utilized hourly adult care must be maintained, including the dates the service was provided. Individual records must be maintained for each person

~~utilizing hourly adult care. The individual record documentation must include:~~ (3-15-22)

- ~~a. Admission identification information, including contact information for the responsible party in an emergency, and the physician or authorized provider;~~ (3-15-22)
- ~~b. Information, such as medical and social, relevant to the supervision of the person; and~~ (3-15-22)
- ~~e. Care and services provided during hourly adult care, including assistance with medications.~~ (3-15-22)

~~**1108. Dietary Records.** The facility must maintain on-site a minimum of three (3) months of dietary documentation, as follows records including:~~ (3-15-22)()

~~a. Copies of planned menus, including therapeutic menus, that are approved, signed, and dated by a dietitian; and Planned, substitution, and therapeutic menus that have been approved and signed by a *licensed registered* dietitian.~~ (3-15-22)()

~~b. Served menus, including therapeutic menus, which reflect substitutions made.~~ (3-15-22)

~~**09. Water Supply.** Laboratory reports documenting the bacteriological examination of a private water supply.~~ ()

~~**12. Records for Water Supply.** Copies of laboratory reports documenting the bacteriological examination of a private water supply must be kept on file in the facility.~~ (3-15-22)

~~**130. Personnel Records.** A record for each employee must be maintained and available, which includes the following:~~ (3-15-22)

~~a. The employee's name, address, phone number, and date of hire;~~ (3-15-22)

~~b. A job description that includes the purpose, responsibilities, duties, and authority;~~ (3-15-22)

~~e. Evidence that on, or prior to hire, staff were notified in writing if the facility does or does not carry professional liability insurance. If the facility cancels existing professional liability insurance, all staff must be notified of the change in writing;~~ (3-15-22)

~~**dc.** A copy of a current valid license for all nursing staff and verification from the Board of Nursing that the license is in good standing with identification of restrictions;~~ (3-15-22)()

~~**ed.** Signed evidence of training as described in Sections 620 through 641 of these rules and dated record of all required staff training;~~ (3-15-22)()

~~**fe.** Copies of CPR and first aid certifications;~~ (3-15-22)

~~**gf.** Evidence of medication training as described in Section 645 of these rules;~~ (3-15-22)()

~~**hg.** Criminal history and background check results that meet Section 009 of these rules and state only background check results;~~ (3-15-22)()

~~**ih.** Documentation by the licensed nurse of delegation to unlicensed staff who assist residents with medications and other nursing tasks;~~ (3-15-22)()

~~**ji.** When acting on behalf of the administrator, a signed document authorizing the responsibility. A signed and dated record identifying any administrator or manager designees; and~~ (3-15-22)()

~~**kj.** Copies Records of contracts with outside service providers and contract staff.~~ (3-15-22)()

~~141.~~ **As Worked Schedules.** Work records ~~must be maintained in written or electronic format which reflect:~~ indicating direct care staff names and shifts worked. (3-15-22)()

- ~~a.~~ Personnel on duty, at any given time; and (3-15-22)
- ~~b.~~ The first and last names of each employee and their position. (3-15-22)

~~153.~~ **Fire and Life Safety Records.** The administrator must ensure the facility's records for fire and life safety are maintained. The facility must maintain on file: (3-15-22)

~~a.~~ Fire ~~The results of fire~~ detection, alarm, ~~and communication system reports~~ inspections, maintenance, and test results including: (3-15-22)()

- i. The results of the annual inspection and tests; and (3-15-22)
- ii. Smoke detector sensitivity testing results. (3-15-22)

~~b.~~ The results of any ~~weekly, monthly, quarterly, semi-annual, and annual~~ sprinkler system inspections, maintenance, and tests; (3-15-22)()

~~c.~~ Records of the m Monthly examination of ~~the~~ portable fire extinguishers, including initials and date and documenting the following: (3-15-22)()

- ~~i.~~ Each extinguisher is in its designated location; (3-15-22)
- ii. Each extinguisher seal or tamper indicator is not broken; (3-15-22)
- iii. Each extinguisher has not been physically damaged; (3-15-22)
- ~~iv~~iii. Each extinguisher gauge shows a charged condition; and (3-15-22)

~~v.~~ The inspection tag or documentation for the extinguisher must show at least the initials of the person making the monthly examination and the date of the examination. (3-15-22)

~~d.~~ Documentation for when a fire watch is instituted and a fire watch log for each round of patrol, identifying who conducted the fire watch, date, time, and situations encountered. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

451. MENU AND DIET PLANNING.

~~The facility must provide each resident with at least the minimum food and nutritional needs in accordance with the Recommended Dietary Allowances established by the Food and Nutrition Board of the National Academy of Sciences. These recommendations are found in the Idaho Diet Manual incorporated by reference in Section 004 of these rules. The menu must be adjusted for age, sex, and activity as approved by a registered dietitian.~~ (3-15-22)

~~01.~~ **Menu.** ~~The facility must have a menu~~ Must be planned or approved, and signed, and dated by a licensed registered dietitian ~~prior to being served to any resident. The planned menu must meet nutritional standards.~~ (3-15-22)()

~~a.~~ Menus will provide a sufficient variety of foods in adequate amounts at each meal; (3-15-22)

~~b.~~ ~~Food selections must include foods that are served in the community and in season. Food selections and textures should account for residents' preferences, food habits, and physical abilities.~~ (3-15-22)

~~eb.~~ The ~~current~~ weekly menu must be posted in a facility common area; and (3-15-22)()

~~d.c.~~ The facility must serve the planned menu. If substitutions are made, the menu must be modified to reflect the substitutions. (3-15-22)

02. Therapeutic Diets. ~~The facility must have a therapeutic diet menu~~ Therapeutic menus must be planned or, approved, and signed, and dated by a licensed registered dietitian prior to being served to any resident. (3-15-22) (_____)

~~a.~~ The therapeutic diet planned menu, if possible, must meet nutritional standards; (3-15-22)

~~b.~~ The therapeutic diet menu must be planned as close to a regular diet as possible; and (3-15-22)

~~e.~~ ~~The facility must have for each resident on a therapeutic diet, an order from a physician or authorized provider.~~ (3-15-22)

03. Facilities Licensed for Sixteen Beds or Less. ~~In facilities licensed for sixteen (16) beds or less, menus must be planned in writing at least one (1) week in advance.~~ (3-15-22)

04. Facilities Licensed for Seventeen Beds or More. ~~Facilities licensed for seventeen (17) beds or more must:~~ (3-15-22)

~~a.~~ ~~Develop and implement a cycle menu which covers a minimum of two (2) seasons and is four (4) to five (5) weeks in length;~~ (3-15-22)

~~b.~~ ~~Follow standardized recipes; and~~ (3-15-22)

~~e.~~ ~~Have available in the kitchen a current copy of the Idaho Food Code and Idaho Diet Manual.~~ (3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.05.01 – USE AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2026 Idaho State Legislature and must be approved by concurrent resolution of the Legislature to go into effect, in accordance with Section 67-5224(2)(c), Idaho Code. Should the pending rule be approved, it will become final and effective on July 1 following the Second Regular Session of the Sixty-eighth Idaho Legislature, unless the concurrent resolution states a different effective date.

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(s) 39-242, 56-221, 56-222, 56-1003, and 56-1004, 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:

Under [Executive Order 2020-01: Zero-Based Regulation](#), the Department is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter to streamline or simplify this rule language. There are no changes to the pending rule, and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 4th, 2025, Idaho Administrative Bulletin, [Vol. 25-6, pages 337 through 351](#).

FEE SUMMARY: Pursuant to Section 67-5224(2)(d), Idaho Code, a pending fee rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature. The following is a description of the fee or charge imposed or increased in this rulemaking:

Fees will not be increased as a result of this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There is not anticipated to be a negative fiscal impact exceeding \$10,000.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Jared Larsen at DHWRules@dhw.idaho.gov.

DATED this 8th day of July, 2025.

Jared Larsen
Chief, Legislative and Regulatory Affairs
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
DHWRules@dhw.idaho.gov

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.04.05 – SELF-FUNDED HEALTH CARE PLANS RULE

DOCKET NO. 18-0405-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-4020, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, August 7, 2025 2:00 p.m. – 4:00 p.m.
In-person participation is available at: Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
Web meeting link: Click here to join the meeting Meeting ID: 237 139 719 159 3 Passcode: jk3o9Ur2 Download Teams Join on the web

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 purpose of this chapter supplements the provisions of Title 41, Chapter 40, Idaho Code, Self-Funded Health Care Plans by providing application requirements, dates, definitions, effective dates; and requirements for contribution rates, contracts, services, and records.

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

No fee or charge imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2025, Idaho Administrative Bulletin, [Volume 25-5, pages 52-53](#) under docket number 18-ZBRR-2501.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or August 27, 2025.

DATED this 2nd day of July, 2025.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0405-2501
(ZBR Chapter Rewrite.)

18.04.05 – SELF-FUNDED HEALTH CARE PLANS RULE

000. LEGAL AUTHORITY.

~~Title 41, Chapter 2, Sections 41-244 and 41-4020.~~ Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title. IDAPA 18.04.05, “Self-Funded Health Care Plans Rule.” (3-31-22)~~

~~02. Scope. This rule chapter supplements the provisions of Title 41, Chapter 40, Idaho Code, Self-Funded Health Care Plans. (3-31-22)()~~

002. -- ~~009~~23. (RESERVED)

010. ~~DEFINITIONS.~~

~~01. “All Contributions to Be Paid in Advance.” All contributions are to be paid in advance of the period of time for which the contribution is made. (3-31-22)~~

~~02. “Deposited in and Disbursed from a Trust Fund.” All contributions based on calculated rates in accordance with Section 028 of this rule are deposited into the trust fund and all expenses are paid out of the trust fund. (3-31-22)~~

011. — 020. (RESERVED)

021. ~~QUALIFICATION OF PLAN.~~

~~In order for a plan to qualify under Title 41, Chapter 40, Idaho Code, the plan's trust will be established by agreement between the employer or employers or a postsecondary education institution and the trustee of the trust, for the sole purpose of providing health care benefits to employees of the employer or employers or to students of the postsecondary educational institution. (3-31-22)~~

022. REGISTRATION.

01. Registration Requisite. ~~No self-funded plan, unless exempted from registration by Section 41-4003, Idaho Code, will be organized and permitted to operate in the state of Idaho without securing a Certificate of Registration from the Director.~~ (3-31-22)

02. Specific Plans. ~~Any plans covering the employees of a common employer are a single plan in respect to the exemption for registration allowed in Section 41-4003, Idaho Code. Any combinations of plans under the effective control of a single administrator, trustee, and/or employer, or group of administrators, trustees and/or employers utilizing or attempting to utilize the exempt dollar amounts permitted under Section 41-4003, Idaho Code in order to avoid registration of any such plans are deemed to be contrary to the intent of Title 41, Chapter 40, Idaho Code, and are expressly banned by this rule.~~ (3-31-22)

03. Beneficiary Within State. Registration is mandatory of plans that cover any beneficiary working or residing within this state, unless the plans are otherwise exempted by Section 41-4003(2), Idaho Code. (3-31-22)

023. (RESERVED)

024. INVESTIGATION OF PROPOSED APPLICATION FOR REGISTRATION.

The Director may ~~make an investigation of~~ investigate matters accompanying the application for registration including an examination specified in Section 41-4013, Idaho Code. Costs of any investigation or examination, or both, will be borne by the trust fund of the plan. (3-31-22)()

025. CONTRIBUTIONS RECEIVABLE.

The trust fund may take credit in any financial statement for contributions receivable which are not in excess of ninety (90) days past due. (3-31-22)

026. TRUST FUND RESERVES AND SURPLUS.

01. Reserve Requirements. The trust fund of the plan is to continuously maintain reserves sufficient, as certified by a qualified actuary as being necessary, to fully fund payment of all benefits in effect at the time a claim arises. This reserve needs to adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (3-31-22)

02. Reserves for Disability Income Benefits. Reserves established for disability income benefits cannot be less than the Minimum Reserve Standards for Group Health Insurance Contracts set forth in the NAIC's Accounting Practices and Procedures Manual unless it can be proven to the satisfaction of the Director that a lower reserve can be actuarially justified. (3-31-22)

03. Certification by Actuary. Reserves needs to be certified annually by a qualified actuary. Such certification needs to be accompanied by a statement describing bases used in reserve determination. The certification will be in a form acceptable to the Director. (3-31-22)()

04. Insolvent Condition. If determination of surplus reveals a deficiency in surplus, the Director may allow the plan up to ninety (90) days to accumulate prescribed surplus. The plan is deemed insolvent when it is either unable to pay its obligations or its assets do not exceed all its liabilities, including prescribed reserves. (3-31-22)

027. BONDING.

01. Certified Copy of Bond. The plan will submit to the Director a certified copy of the fidelity bond or equivalent coverage, ~~as prescribed under~~ pursuant to Section 41-4014(3), Idaho Code. (3-31-22)()

02. Scope of Coverage. The fidelity bond or equivalent coverage will cover every trustee, officer, director, and employee of the plan. (3-31-22)

03. Cancellation of Bond Requirements. The fidelity bond or equivalent coverage needs to contain

language stating that it is noncancellable except upon not less than thirty (30) days advance notice in writing to the trustee and the Director. ~~A~~ The surety is to forward a copy of any notice ~~cancelling a bond prescribed under Title 41, Chapter 40, Idaho Code, is to be forwarded~~ such bond to the Director ~~by the surety~~ at the same time it is forwarded to the trustee. (3-31-22)()

~~04. Third Party Administrator. Any party that provides any one of the following services to the plan needs to be licensed as a third party administrator. (3-31-22)~~

~~a. Directly or indirectly underwrites; (3-31-22)~~

~~b. Collects or handles charges or contributions; or (3-31-22)~~

~~c. Adjusts or settles claims on members or beneficiaries of the plan. (3-31-22)~~

028. CONTRIBUTION RATES.

01. Contribution Rate Calculation. Contribution rates will be calculated at least annually by a qualified actuary. The contribution rate calculations should break down and designate the rate for the employer and the rate per employee, or the rate for the postsecondary educational institution and the rate per student. (3-31-22)

02. Employer Contributions. Employer contributions will be based on filed rates, paid in advance on a periodic basis during the period of coverage or at the beginning of the period of coverage. (3-31-22)

~~03. Annual Filing of Rates. The annual filing of rates with the Director will include a breakdown as prescribed under Subsection 028.01. (3-31-22)~~

029. CONTRACTS AND SERVICES.

01. Affiliated Contracts. All contracts for goods or services provided to the plan by any plan sponsor, employer, third party administrator, or other affiliated entity or employee or agent thereof, will be in writing, setting forth in detail the rights and duties of each party to the writing; regardless of whether compensation, fees, or other consideration is paid or exchanged directly or indirectly. (3-31-22)

02. Contracts for Services. All contracts for services directly affecting the plan including, but not limited to, accounting services, legal services, custodial agreements, and agreements for lease, rent, or insurance coverage to be performed or entered into on behalf of the plan will be agreed to by the board of trustees and the other party. (3-31-22)

03. Recordkeeping and Writing. Contracts and agreements valued at greater than five hundred dollars (\$500.00) entered into by the plan, will be in writing and approved by resolution of the board of trustees, and placed in the minutes and records of the plan. (3-31-22)

04. Fiduciary Duty. ~~By entering into contracts and agreements, t~~ The trustees are not permitted to transfer or avoid their statutory fiduciary responsibilities. (3-31-22)()

030. RECORDS.

01. Board Actions. Any and all acts, resolutions, appointments, or delegations, or other decisions of the board of trustees will be in writing and placed in the minutes and records of the plan. (3-31-22)

02. Complete Records. The full and accurate records and accounts of the plan include, but are not limited to, minutes of the meetings of the board of trustees that document the acts, resolutions, appointments or delegations of the trustees; any and all correspondence between the board of trustees and contractors; accounting and actuarial records; and any and all records, correspondence, minutes, or statements as prescribed by law or the trust agreement. (3-31-22)

031. ANNUAL STATEMENT.

The trustee will file an annual statement within ninety (90) days after the close of each fiscal year of the Plan and at such other time as may be determined by the Director. A quarterly statement will be filed with the Director within sixty (60) days of the end of each quarter in a form acceptable to the Director. (3-31-22)()

032. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE
18.04.06 – GOVERNMENTAL SELF-FUNDED EMPLOYEE HEALTH CARE PLANS RULE
DOCKET NO. 18-0406-2501 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, August 7, 2025 2:00 p.m. – 4:00 p.m.
In-person participation is available at: Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
Web meeting link: Click here to join the meeting Meeting ID: 237 139 719 159 3 Passcode: jk3o9Ur2 Download Teams Join on the web

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 purpose of this chapter is to supplement the provisions of Title 41, Chapter 41, Idaho Code, Joint Public Agency Self-Funded Health Care Plans by providing application requirements, rules, dates, and definitions.

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

No fee or charge imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2025, Idaho Administrative Bulletin, [Volume 25-5, pages 52-53](#) under docket number 18-ZBRR-2501.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 2nd day of July, 2025.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0406-2501
(ZBR Chapter Rewrite.)

18.04.06 – GOVERNMENTAL SELF-FUNDED EMPLOYEE HEALTH CARE PLANS RULE

000. LEGAL AUTHORITY.

~~Title 41, Chapter 2, Sections 41-211 and 41-4120~~ Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title. IDAPA 18.04.06, “Governmental Self-Funded Employee Health Care Plans Rule.”~~ (3-31-22)

~~02. Scope. The purpose of this rule is to~~ chapter supplements the provisions of Title 41, Chapter 41, Idaho Code, Joint Public Agency Self-Funded Health Care Plans by providing: (3-31-22)()

~~a. Dates of~~ and requirements for, application for registration; (3-31-22)()

~~b. Requirements for application for registration;~~ (3-31-22)

~~eb.~~ Rules regarding investigation of applications; and (3-31-22)()

~~dc.~~ Definition of needed liabilities; and establishment of reserve bases; and (3-31-22)()

~~e. To provide an effective date.~~ (3-31-22)

002. -- ~~0202.~~ (RESERVED)

~~021. QUALIFICATION OF PLAN.~~

~~In order to qualify under Title 41, Chapter 41, Idaho Code, the plan's trust needs to be established by agreement between the public agency employers or joint powers entity and the trustee of the trust, for the sole purpose of providing health care benefits to employees of the public agency employer or employers.~~ (3-31-22)

~~022. REGISTRATION.~~

~~01. **Registration Requisite.** No joint public agency self-funded plan, unless exempted from registration by Section 41-4103, Idaho Code, will be organized and permitted to operate in the state of Idaho without securing a certificate of registration from the Director of insurance. (3-31-22)~~

~~02. **Beneficiary Within State.** Registration is mandatory of plans that cover any beneficiary working or residing within this state, unless the plans are exempted by Section 41-4103, Idaho Code. (3-31-22)~~

023. APPLICATION FOR REGISTRATION.

~~01. **Application.** The application needs to include each of the requirements set out in Section 41-4105, Idaho Code. The projected income and disbursement statement referenced in Section 41-4105(2)(d), Idaho Code, needs to be certified by an actuary meeting the qualifications of Section 41-4105(2)(d), Idaho Code, and accompanied by a description of assumptions used in projecting income and disbursements together with bases used to estimate amounts reserved for claims. (3-31-22)~~

~~02. **Joint Powers Agreement.** The joint powers agreement needs to comply with Title 41, Chapter 41 and, to the extent not in conflict with Title 41, the joint powers agreement needs to also comply with Title 67, Chapter 23, Idaho Code. The joint powers agreement needs to contain, at a minimum, the conditions set forth in Section 41-4104, Idaho Code. (3-31-22)~~

~~031. **Trust Agreement.** (3-31-22)~~

~~a. The trust agreement will comply with Title 41, Chapter 41, Idaho Code, and, to the extent not in conflict with Title 41, the trust agreement needs to also comply with Title 68, Idaho Code, and Title 15, Chapter 7, Idaho Code. The trust agreement will contain, at a minimum, the conditions set forth in Section 41-4104, Idaho Code. (3-31-22)~~

~~b. The term irrevocable as used in Section 41-4104(1), Idaho Code, means that the plan sponsor cannot retain a power to alter, amend, revoke or terminate the transfer in trust. The trustee may, pursuant to the terms of the trust agreement, amend the terms of the trust agreement for the purpose of complying with applicable law. (3-31-22)()~~

~~042. **Biographical Affidavit.** The application needs to be accompanied by a biographical affidavit for each trustee on a form acceptable to Director. (3-31-22)~~

024. INVESTIGATION OF PROPOSED APPLICATION FOR REGISTRATION.

The Director may make an investigation of matters accompanying the application for registration as deemed necessary including an examination specified in Section 41-4113, Idaho Code. (3-31-22)

025. CONTRIBUTIONS RECEIVABLE.

The trust fund may take credit in any financial statement for contributions receivable which are not in excess of ninety (90) days past due. (3-31-22)

026. TRUST FUND RESERVES.

01. Reserve Requirements. The trust fund of a plan needs to continuously maintain reserves, pursuant to Section 41-4110, Idaho Code, from inception of the plan, sufficient to fully fund payment of all benefits at the time a claim arises. This reserve needs to adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (3-31-22)

02. Reserves for Disability Income Benefits. Reserves established for disability income benefits cannot be less than reserves determined by the Minimum Reserve Standards for Group Health Insurance Contracts set forth in the NAIC's Accounting Practices and Procedures Manual unless it can be proven to the satisfaction of the Director that a lower reserve can be actuarially justified. (3-31-22)

03. Certification by Actuary. Reserves needs to be certified annually by an actuary who meets the

requirements of Section 41-4105(2)(d), Idaho Code, and such certification needs to be accompanied by a statement describing bases used in reserve determination. The certification will be in a form acceptable to the Director. (3-31-22)

04. Insolvent Condition. (3-31-22)

a. Insolvency means that the plan is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities, including needed reserves. (3-31-22)

b. If the determination of reserves reveals an insolvent condition, the Director may allow the plan a period of time not exceeding ninety (90) days to accumulate needed reserves. (3-31-22)

027. BONDING OR DISHONESTY INSURANCE.

01. Certified Copy of Bond. ~~The plan will furnish~~ A certified copy of the fidelity bond or dishonesty policy, as prescribed under Section 41-4114(3), Idaho Code, ~~will be furnished~~ to the Director ~~by the plan.~~ (3-31-22)()

02. Cancellation of Bond Requirements. The bond or dishonesty policy will contain language stating that the bond or policy is noncancellable except upon not less than thirty (30) days advance notice in writing to the trustee and the Director. ~~A~~ The surety or policy provider is to forward a copy of any notice cancelling a bond or dishonesty policy prescribed under Chapter 41 ~~is to be forwarded to the Director by the surety or policy provider to the Director~~ at the same time it is forwarded to the board. (3-31-22)()

028. ~~ANNUAL-QUARTERLY STATEMENT.~~
~~The trustee will file an annual statement within ninety (90) days after the close of each fiscal year of the plan and at such other time as may be determined by the Director.~~ A quarterly statement, per Idaho Code 41-4111(4), will be filed with the Director within sixty (60) days of the end of each quarter in a form acceptable to the Director. (3-31-22)()

029. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE
18.04.11 – LONG-TERM CARE INSURANCE MINIMUM STANDARDS
DOCKET NO. 18-0411-2501 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, and 41-4608, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, August 7, 2025 2:00 p.m. – 4:00 p.m.
In-person participation is available at: Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
Web meeting link: Click here to join the meeting Meeting ID: 237 139 719 159 3 Passcode: jk3o9Ur2 Download Teams Join on the web

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 purpose of this chapter is to promote the public interest and availability of long-term care insurance coverage. The intent is to protect applicants from unfair sales and enrollment practices and facilitate public understanding, comparison, flexibility, and innovation in the development of long-term care insurance.

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

No fee or charge imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2025, Idaho Administrative Bulletin, [Volume 25-5, pages 52-53](#) under docket number 18-ZBRR-2501.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

No changes are proposed to the materials incorporated by reference. Pursuant to 67-5202, Idaho Code, and to align with rulemaking standards, the incorporation by reference section will provide a specific reference with a direct link to the material.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 2nd day of July, 2025.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0411-2501
(ZBR Chapter Rewrite.)

18.04.11 – LONG-TERM CARE INSURANCE MINIMUM STANDARDS

000. LEGAL AUTHORITY.

~~Title 41, Chapters 2 and 46, Section 41-211, Section 41-4608,~~ Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

01. ~~Title.~~ IDAPA 18.04.11, “~~Long-Term Care Insurance Minimum Standards.~~” (3-31-22)

02. ~~Purpose.~~ ~~The purpose of this chapter is to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages, and to facilitate flexibility and innovation in the development of long-term care insurance.~~ (3-31-22)

03. ~~Scope and Applicability.~~ Except as specifically provided, this chapter applies to all long-term care insurance policies including qualified long-term care insurance contracts and life insurance policies that accelerate benefits for long-term care delivered or issued for delivery in this state; certain provisions of this chapter apply only to qualified long-term care insurance. Additionally, this chapter is intended to apply to policies having indemnity benefits that are triggered by activities of daily living and sold as disability income insurance, if: (3-31-22)()

a. The benefits of the disability income policy are dependent upon or vary in amount based on the receipt of long-term care services; (3-31-22)

- b. The disability income policy is advertised, marketed or offered as insurance for long-term care services; or (3-31-22)
- c. Benefits under the policy may commence after the policyholder has reached Social Security's normal retirement age unless benefits are designed to replace lost income or pay for specific expenses other than long-term care services. (3-31-22)

002. INCORPORATION OF DOCUMENTS BY REFERENCE.

~~01. Forms. Documents incorporated by reference may be obtained from the Idaho Department of Insurance website. (3-31-22)~~

021. Documents Incorporated by Reference. This chapter incorporates by reference the following documents, appendices, and attachments of the National Association of Insurance Commissioners (NAIC) Long-Term Care Model Regulation. ~~The Model Regulation is available from the NAIC and from the Idaho Department of Insurance~~ Long-Term Care Model Regulation as published in 2017. (3-31-22)(____)

- a. Rescission Reporting Form for Long-Term Care, Appendix A. (3-31-22)
- b. Personal Worksheet, Appendix B. (3-31-22)
- c. Things You Should Know Before You Buy Long-Term Care Insurance, Appendix C. (3-31-22)
- d. Suitability Letter, Appendix D. (3-31-22)
- e. Claims Denial Reporting Form, Appendix E. (3-31-22)
- f. Instructions, Appendix F. (3-31-22)
- g. Replacement and Lapse Reporting Form, Appendix G. (3-31-22)
- h. Outline of Coverage. (3-31-22)
- i. Notice to Applicant Regarding Replacement of Individual Accident and Sickness or Long-Term Care Insurance, Attachment I. (3-31-22)
- j. Notice to Applicant Regarding Replacement of Accident and Sickness or Long-Term Care Insurance, Attachment II. (3-31-22)

003. -- 009. (RESERVED)

010. DEFINITIONS.

~~For the purpose of this rule, the following definitions apply:~~ In addition to those found in Title 41, Chapter 46, Idaho Code, the following definitions apply. (3-31-22)(____)

01. Exceptional Increase. ~~Means e~~ Only those increases filed by an insurer as exceptional for which the director determines the need for the premium rate increase is justified due to changes in Idaho laws or rules applicable to long-term care coverage, or due to increased and unexpected utilization that affects the majority of insurers of similar products. (3-31-22)(____)

- a. Except as provided in Section 025, Premium Rate Schedule Increases, exceptional increases are subject to the same requirements as other premium rate schedule increases. (3-31-22)
- b. The director may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase. (3-31-22)
- c. The director, in determining that the necessary basis for an exceptional increase exists, will

determine any potential offsets to higher claims costs. (3-31-22)

02. Incidental. As used in Subsection 025.10, the value of the long-term care benefits provided is less than ten percent (10%) of the total value of the benefits provided over the life of the policy. These values are measured as of the date of issue. (3-31-22)

03. Qualified Actuary. ~~Means a~~ **A** member in good standing of the American Academy of Actuaries. (3-31-22)()

011. POLICY DEFINITIONS.

~~For the purpose of this rule, n~~ **No** long-term care insurance policy delivered or issued for delivery in this state may use the terms set forth below, unless the terms are defined in the policy. ~~In relation to the Qualified Long-Term Care plans, and such definitions are to satisfy definitions as amended by the U.S. Treasury Department and the following requirements.~~ (3-31-22)()

01. Activities of Daily Living. At least bathing, continence, dressing, eating, toileting, and transferring. (3-31-22)

02. Acute Condition. The individual is medically unstable. Such an individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, to maintain the individual's health status. (3-31-22)

03. Adult Day Care. A program for six (6) or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home. (3-31-22)

04. Bathing. Washing oneself by sponge bath; or in either a tub or shower, including the task of getting into or out of the tub or shower. (3-31-22)

05. Cognitive Impairment. A deficiency in a person's short or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness. (3-31-22)

06. Continence. The ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag). (3-31-22)

07. Dressing. Putting on and taking off all items of clothing and any necessary braces, fasteners, or artificial limbs. (3-31-22)

08. Eating. Feeding oneself by getting food into the body from a receptacle (such as a plate, cup, or table) or by a feeding tube or intravenously. (3-31-22)

09. Hands-On Assistance. Physical assistance (minimal, moderate, or maximal) without which the individual would not be able to perform the activity of daily living. (3-31-22)

10. Home Health Care Services. Medical and non-medical services, provided to ill, disabled, or infirm persons in their residences. Such services may include homemaker services, assistance with activities of daily living, and respite care services. (3-31-22)

11. Mental or Nervous Disorder. Limited to neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder. (3-31-22)

12. Personal Care. The provision of hands-on services to assist an individual with activities of daily living. (3-31-22)

13. Similar Policy Forms. ~~Means a~~ **All** of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered. Certificates of

groups that meet the definition in Section 41-4603(4)(a), Idaho Code, are not considered similar to certificates or policies issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows: (3-31-22)()

- a. Institutional long-term care benefits only; (3-31-22)
- b. Non-institutional long-term care benefits only; or (3-31-22)
- c. Comprehensive long-term care benefits. (3-31-22)

14. Skilled Nursing Care, Personal Care, Home Care, Specialized Care, Assisted Living Care and Other Services. Defined in relation to the level of skill prescribed, the nature of the care and the setting in which care need be delivered. (3-31-22)

15. Toileting. Getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene. (3-31-22)

16. Transferring. Moving into or out of a bed, chair, or wheelchair. (3-31-22)

17. All Providers of Services. All providers of services including but not limited to Skilled Nursing Facility, Extended Care Facility, Convalescent Nursing Home, Personal Care Facility, Specialized Care Providers, Assisted Living Facility, and Home Care Agency is defined in relation to the services and facilities prescribed to be available and the licensure, certification, registration or degree status of those providing or supervising the services. When the definition requires that the provider be appropriately licensed, certified or registered, it also states what requirements a provider need meet in lieu of licensure, certification or registration when the state in which the service is to be furnished does not require a provider of these services to be licensed, certified or registered, or when the state licenses, certifies or registers the provider of services under another name. (3-31-22)

012. POLICY PRACTICES AND PROVISIONS.

01. Renewability. The terms “guaranteed renewable” and “noncancellable” cannot be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of Section 014 ~~of this rule.~~ (3-31-22)()

a. A policy issued to an individual cannot contain renewal provisions other than “guaranteed renewable” or “noncancellable.” (3-31-22)

b. The term “guaranteed renewable” may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis. (3-31-22)

c. The term “noncancellable” may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate. (3-31-22)

d. The term “level premium” may only be used when the insurer does not have the right to change the premium ~~for a specified period for the life of the policy.~~ (3-31-22)()

e. In addition to the other requirements of Subsection 014~~2~~.01, a qualified long-term care insurance contract is guaranteed renewable, within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986 as amended. (3-31-22)()

02. Limitations and Exclusions. A policy cannot be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows: (3-31-22)

- a. Preexisting conditions or diseases; (3-31-22)
 - b. Mental or nervous disorders; however, this does not permit exclusion or limitation of benefits on the basis of Alzheimer’s Disease; (3-31-22)
 - c. Alcoholism and drug addiction; (3-31-22)
 - d. Illness, treatment, or medical condition arising out of: (3-31-22)
 - i. War or act of war (whether declared or undeclared); (3-31-22)
 - ii. Participation in a felony, riot, or insurrection; (3-31-22)
 - iii. Service in the armed forces or units auxiliary thereto; (3-31-22)
 - iv. Suicide (sane or insane), attempted suicide, or intentionally self-inflicted injury; or (3-31-22)
 - v. Aviation (this exclusion applies only to non-fare-paying passengers). (3-31-22)
 - e. Treatment provided in a government facility (unless prescribed by law), services for which benefits are available under Medicare or other governmental program (except Medicaid), any state or federal workers’ compensation, employer’s liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person’s immediate family, and services for which no charge is normally made in the absence of insurance; (3-31-22)
 - f. Expenses for services or items available or paid under another long-term care insurance or health insurance policy; or (3-31-22)
 - g. In the case of a qualified long-term care insurance contract, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount. (3-31-22)
 - h. Subsection 01+2.02 is not intended to prohibit exclusions and limitations by type of provider. However, no long-term care issuer may deny a claim because services are provided in a state other than the state of policy issue under the following conditions: (3-31-22)()
 - i. When the state other than the state of policy issue does not have the provider licensing, certification or registration prescribed in the policy, but where the provider satisfies the policy requirements outlined for providers in lieu of licensure, certification or registration; or (3-31-22)
 - ii. When the state other than the state of policy issue licenses, certifies or registers the provider under another name. For purposes of this Subsection 01+2.02.h. “state of policy issue” means the state in which the individual policy or certificate was originally issued. (3-31-22)()
 - iii. Subsection 01+2.02 is not intended to prohibit territorial limitations. (3-31-22)()
- 03. Extension of Benefits.** Termination of long-term care insurance is without prejudice to any benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. The extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy. (3-31-22)
- 04. Continuation or Conversion.** (3-31-22)
- a. Group long-term care insurance issued in this state on or after ~~the effective date of Section 011 July 1, 1993,~~ provides covered individuals with a basis for continuation or conversion of coverage. (3-31-22)()

b. For the purposes of Section 01+2, “a basis for continuation of coverage” means a policy provision that maintains coverage under the existing group policy when the coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies that restrict provision of benefits and services to, or contain incentives to use certain providers or facilities, may provide continuation benefits that are substantially equivalent to the benefits of the existing group policy. The director makes a determination as to the substantial equivalency of benefits, and in doing so, takes into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity. (3-31-22)()

c. For the purposes of Section 01+2, “a basis for conversion of coverage” means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced) for at least six (6) months immediately prior to termination, is entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability. (3-31-22)()

d. For the purposes of Section 01+2, “converted policy” means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the director to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers or facilities, the director, in making a determination as to the substantial equivalency of benefits, takes into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity. (3-31-22)()

e. Written application for the converted policy is made and the first premium due, if any, is paid as directed by the insurer not later than thirty-one (31) days after termination of coverage under the group policy. The converted policy is ~~issued~~ effective on the day following the termination of coverage under the group policy and is renewable annually. (3-31-22)()

f. Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy is calculated on the basis of the insured’s age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy is calculated on the basis of the insured’s age at inception of coverage under the group policy replaced. (3-31-22)

g. Continuation of coverage or issuance of a converted policy is mandatory, except where: (3-31-22)

i. Termination of group coverage resulted from an individual’s failure to make any prescribed payment of premium or contribution when due; or (3-31-22)

ii. The terminating coverage is replaced not later than thirty-one (31) days after termination, by group coverage effective on the day following the termination of coverage: (3-31-22)

(1) Providing benefits identical to or benefits determined by the director to be substantially equivalent to or in excess of those provided by the terminating coverage; and (3-31-22)

(2) The premium for which is calculated in a manner consistent with the requirements of Subsection 01+2.04.f. (3-31-22)()

h. Notwithstanding any other provision of Section 01+2, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy that provides benefits on the basis of incurred expenses, may contain a provision that results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than one hundred percent (100%) of incurred expenses. The provision is only included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable. (3-31-22)()

i. The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, cannot exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect. (3-31-22)

j. Notwithstanding any other provision of Section 01+2, an insured individual whose eligibility for group long-term care coverage is based upon the individual's relationship to another person is entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage. (~~3-31-22~~)()

k. For the purposes of Section 01+2 a "managed-care plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks. (~~3-31-22~~)()

05. Discontinuance and Replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer offers coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy: (3-31-22)

a. Will not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced; and (3-31-22)

b. Cannot vary or depend on the individual's health or disability status, claim experience or use of long-term care services. (3-31-22)

06. Premium Changes. (3-31-22)

a. The premium charged to an insured cannot increase due to either: (3-31-22)

i. The increasing age of the insured at ages beyond sixty-five (65); or (3-31-22)

ii. The duration the insured has been covered under the policy. (3-31-22)

b. The purchase of additional coverage is not considered a premium rate increase, but for purposes of the calculation prescribed under Section 032, the portion of the premium attributable to the additional coverage is added to and considered part of the initial annual premium. (3-31-22)

c. A reduction in benefits is not considered a premium change, but for purpose of the calculation prescribed under Section 032, the initial annual premium is based on the reduced benefits. (3-31-22)

07. Electronic Enrollment for Group Policies. (3-31-22)

a. In the case of a group defined in Section 41-4603(4)(a), Idaho Code, any requirement that a signature of an insured be obtained by a producer or insurer is satisfied if: (3-31-22)

i. The consent is obtained by telephonic or electronic enrollment by the group policyholder or insurer. A verification of enrollment information is provided to the enrollee; (3-31-22)

ii. The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention, and prompt retrieval of records; and (3-31-22)

iii. The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure that the confidentiality of individually identifiable information, "privileged information," is maintained. (3-31-22)

b. The insurer makes available, upon request of the director, records that will demonstrate the insurer's ability to confirm enrollment and coverage amounts. (3-31-22)

013. UNINTENTIONAL LAPSE.

01. Notice Before Lapse or Termination. Each insurer offering long-term care insurance, as a protection against unintentional lapse, complies with the following: (3-31-22)

a. No individual long-term care policy or certificate is issued until the insurer has received from the applicant either a written designation of at least one (1) person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to designate at least one (1) person who is to receive the notice of termination, in addition to the insured. Designation cannot constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation will provide space clearly designated for listing at least one (1) person. The designation includes each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver states: "Protection against unintended lapse. I understand that I have the right to designate at least one (1) person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty (30) days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice." The insurer notifies the insured of the right to change this written designation, no less often than once every two (2) years. (3-31-22)

b. When the policyholder or certificate holder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in Subsection 013.01.a. need not be met until sixty (60) days after the policyholder or certificate holder is no longer on such a payment plan. The application or enrollment form for such policies or certificates clearly indicates the payment plan selected by the applicant. (3-31-22)

c. Lapse or termination for nonpayment of premium. No individual long-term care policy or certificate can lapse or be terminated for nonpayment of premium unless the insurer, at least thirty (30) days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to Subsection 013.01.a., at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice is given by first class United States mail, postage prepaid; and notice cannot be given until thirty (30) days after a premium is due and unpaid. Notice is deemed to have been given as of five (5) days after the date of mailing. (3-31-22)

02. Reinstatement. In addition to the requirement in Subsection 013.01, a long-term care insurance policy or certificate includes a provision that provides for reinstatement of coverage, in the event of lapse if the insurer is provided proof that the policyholder or certificate holder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option is available to the insured if requested within five (5) months after termination and allows for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity cannot be more stringent than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate. (3-31-22)

014. REQUISITE DISCLOSURE PROVISIONS.

01. Renewability. Individual long-term care insurance policies will contain a renewability provision. (3-31-22)

a. The provision is appropriately captioned, appears on the first page of the policy, and clearly states that the coverage is guaranteed renewable or noncancellable. This provision cannot apply to policies that do not contain a renewability provision, and under which the right to nonrenewal is reserved solely to the policyholder. (3-31-22)()

b. A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, includes a statement that the premium rates may change. (3-31-22)

02. Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements

added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy requires signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term is agreed to in writing signed by the insured, except if the increased benefits or coverage are prescribed by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge is set forth in the policy, rider or endorsement. (3-31-22)

03. Payment of Benefits. A long-term care insurance policy that provides for the payment of benefits based on standards described as “usual and customary,” “reasonable and customary,” or words of similar import includes a definition of these terms and an explanation of the terms in its accompanying outline of coverage. (3-31-22)

04. Limitations. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations appears as a separate paragraph of the policy or certificate and is labeled as “Preexisting Condition Limitations.” (3-31-22)

05. Other Limitations or Conditions on Eligibility for Benefits. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those banned in Section 41-4605(4)(b)(i), Idaho Code, sets forth a description of the limitations or conditions, including any prescribed number of days of confinement, in a separate paragraph of the policy or certificate and labels such paragraph “Limitations or Conditions on Eligibility for Benefits.” (3-31-22)

06. Disclosure of Tax Consequences. With regard to life insurance policies that provide an accelerated benefit for long-term care, a disclosure statement is prescribed at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement is prominently displayed on the first page of the policy or rider and any other related documents. Subsection 014.06 cannot apply to qualified long-term care insurance contracts. (3-31-22)

07. Benefit Triggers. Activities of daily living and cognitive impairment is used to measure an insured’s need for long-term care and is described in the policy or certificate in a separate paragraph and is labeled “Eligibility for the Payment of Benefits.” Any additional benefit triggers need to be explained. If these triggers differ for different benefits, explanation of the trigger accompanies each benefit description. If an attending physician or other specified person needs to certify a certain level of functional dependency to be eligible for benefits, this too needs to be specified. (3-31-22)

08. Qualified Contracts. A qualified long-term care insurance contract includes a disclosure statement in the policy and in the outline of coverage as contained in Section 035 that the policy is intended to be a qualified long-term care insurance contract under Section 7702B (b) of the Internal Revenue Code of 1986, as amended. (3-31-22)

09. Non-Qualified Contracts. A non-qualified long-term care insurance contract includes a disclosure statement in the policy and in the outline of coverage as contained in Section 035 that the policy is not intended to be a qualified long-term care insurance contract. (3-31-22)

10. Requisite Disclosure of Rating Practices to Consumers. (3-31-22)

a. Subsection 014.10 applies ~~as follows:~~ (3-31-22)

i. ~~Except as provided in Subsection 014.10.a.ii., Subsection 014.10 applies~~ to any long-term care policy or certificate issued in this state ~~on or after July 1, 2001.~~ (3-31-22)

ii. ~~For certificates issued on or after the effective date of this amended rule under a group long term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, which policy was in force at the time this amended rule became effective, the provisions of Subsection 014.10 applies~~ on the policy anniversary following January 1, 2002. (3-31-22)()

b. Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers provide all of the information listed in Subsection 014.10.b. to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer provides all information listed in Subsection 014.10.b. to the applicant no later than at the time of delivery of the policy or certificate. (3-31-22)

i. A statement that the policy may be subject to rate increases in the future; (3-31-22)

ii. An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision; (3-31-22)

iii. The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase; and (3-31-22)

iv. A general explanation for applying premium rate or rate schedule adjustments that includes a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.); and the right to a revised premium rate or rate schedule as provided in Subsection 014.10.b.ii., if the premium rate or rate schedule is changed. (3-31-22)

c. Information regarding each premium rate increase on this policy form or similar forms over the past ten (10) years for this state or any other state that, at a minimum, identifies: (3-31-22)

i. The policy forms for which premium rates have been increased; (3-31-22)

ii. The calendar years when the form was available for purchase; and (3-31-22)

iii. The amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase, and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics. (3-31-22)

d. The insurer may, in a fair manner, provide additional explanatory information related to the rate increases. (3-31-22)

e. An insurer has the right to exclude from the disclosure premium rate increases that only apply to blocks of business acquired from other nonaffiliated insurers or the long-term care policies acquired from other nonaffiliated insurers when those increases occurred prior to acquisition. (3-31-22)

~~**f.** If an acquiring insurer files for a rate increase on a long term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the later of the effective date of Subsection 014.10 or the end of a twenty four (24) month period following the acquisition of the block of policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company includes the disclosure of that rate increase in accordance with Subsection 014.10.e. (3-31-22)~~

~~**g.** If the acquiring insurer in Subsection 014.10.f. above files for a subsequent rate increase, even within the twenty four (24) month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from insurers referenced in Subsection 014.10.f., the acquiring insurer will make all disclosures prescribed by Subsection 014,10.e., including disclosure of the earlier rate increase referenced in Subsection 014.10.f. (3-31-22)~~

hf. An applicant signs an acknowledgment at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure prescribed under Subsections 014.10.b. and 014.10.c. If because of the method of application the applicant cannot sign an acknowledgment at the time of application, the applicant signs no later than at the time of delivery of the policy or certificate. (3-31-22)

ig. An insurer uses the forms in Appendices B and F to comply with the disclosure requirements of Subsection 014.10.b. and Subsection 014.10.hf. (3-31-22)()

1b. An insurer provides notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least thirty (30) days prior to the implementation of the premium rate schedule increase by the insurer. The notice includes the information prescribed by Subsection 014.10.b., when the increase is implemented. (3-31-22)

015. PROHIBITION AGAINST POST-CLAIMS UNDERWRITING.

01. Health Conditions. All applications for long-term care insurance policies or certificates except those that are guaranteed issue contains clear and unambiguous questions designed to ascertain the health condition of the applicant. (3-31-22)

02. Medication. If an application for long-term care insurance contains a question that asks whether the applicant has had medication prescribed by a physician, it will also ask the applicant to list the medication that has been prescribed. If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would be denied, then the policy or certificate cannot be rescinded for that condition. (3-31-22)

03. Non-Guaranteed Issue. Except for policies or certificates which are guaranteed issue: (3-31-22)

a. The following language is set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate: Caution: If your answers on this application are incorrect or untrue, (company) has the right to deny benefits or rescind your policy. (3-31-22)

b. The following language, or language substantially similar to the following, is set out conspicuously on the long-term care insurance policy or certificate at the time of delivery:
"Caution: The issuance of this long-term care insurance (policy) (certificate) is based upon your responses to the questions on your application. A copy of your (application) (enrollment form) (is enclosed) (was retained by you when you applied). If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: (insert address)." (3-31-22)

c. Prior to issuance of a long-term care policy or certificate to an applicant aged eighty (80) or older, the insurer obtains one (1) of the following: ~~(3-31-22)~~ ()

- i. A report of a physical examination; (3-31-22)
- ii. An assessment of functional capacity; (3-31-22)
- iii. An attending physician's statement; or (3-31-22)
- iv. Copies of medical records. (3-31-22)

04. Delivery of Application or Enrollment and Form. A copy of the completed application or enrollment form (whichever is applicable) is delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application. (3-31-22)

05. Record of Rescissions. Every insurer or other entity selling or issuing long-term care insurance benefits maintains a record of all policy or certificate rescissions, both state and countrywide, except those that the insured voluntarily effectuated and annually furnishes this information to the insurance director in the format prescribed by the National Association of Insurance Commissioners in Appendix A. (3-31-22)

016. MINIMUM STANDARDS FOR HOME HEALTH AND COMMUNITY CARE BENEFITS IN LONG-TERM CARE INSURANCE POLICIES.

01. Limitations or Exclusions. A long-term care insurance policy or certificate cannot, if it provides benefits for home health care or community care services, limit or exclude benefits: (3-31-22)

- a.** By requiring that the insured or claimant would need care in a skilled nursing facility if home health care services were not provided; (3-31-22)
- b.** By requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services, or both, in a home, community, or institutional setting before home health care services are covered; (3-31-22)
- c.** By limiting eligible services to services provided by registered nurses or licensed practical nurses; (3-31-22)
- d.** By requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of their licensure or certification; (3-31-22)
- e.** By excluding coverage for personal care services provided by a home health aide; (3-31-22)
- f.** By requiring that the provision of home health care services be at a level of certification or licensure greater than that prescribed by the eligible service; (3-31-22)
- g.** By requiring that the insured or claimant have an acute condition before home health care services are covered; (3-31-22)
- h.** By limiting benefits to services provided by Medicare-certified agencies or providers; or (3-31-22)
- i.** By excluding coverage for adult day care services. (3-31-22)

02. Coverage Equivalency. A long-term care insurance policy or certificate, if it provides for home health or community care services, provides total home health or community care coverage that is a dollar amount equivalent to at least one-half (1/2) of one (1) year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement cannot apply to policies or certificates issued to residents of continuing care retirement communities. (3-31-22)

03. Maximum Coverage. Home health care coverage may be applied to the non-home health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate. (3-31-22)

017. REQUIREMENT TO OFFER INFLATION PROTECTION.

01. Inflation Protection Offer. No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder in addition to any other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers will offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one (1) of the following: (3-31-22)

- a.** Increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than five percent (5%); (3-31-22)
- b.** Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status as long as the option for the previous period has not been declined. The amount of the additional benefit is no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent (5%) for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or (3-31-22)
- c.** Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit. (3-31-22)

- d.** With respect to inflation protection for a Partnership policy only: (3-31-22)
- i. If the policy is sold to an individual who has not attained age sixty-one (61) as of the date of purchase, the policy will provide some level of automatic compound annual inflation protection; (3-31-22)
- ii. If the policy is sold to an individual who has attained age sixty-one (61) but has not attained age 76 as of the date of purchase, the policy will provide some level of automatic annual inflation protection; and (3-31-22)
- iii. If the policy is sold to an individual who has attained age seventy-six (76) as of the date of purchase, the policy may (but is not prescribed to) provide some level of inflation protection. (3-31-22)

02. Group Offer. Where the policy is issued to a group, the prescribed offer in Subsection 017.01 is made to the group policyholder; except, if the policy is issued to a group defined in Section 41-4603(4)(d), Idaho Code, other than to a continuing care retirement community, the offering is made to each proposed certificate holder. (3-31-22)()

03. Requirements for Life Insurance Policies. The offer in Subsection 017.01 above is not prescribed of life insurance policies or riders containing accelerated long-term care benefits. (3-31-22)

04. Outline of Coverage. Insurers include the following information in or with the outline of coverage: (3-31-22)

a. A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shows benefit levels over at least a twenty (20) year period. (3-31-22)

b. Any expected premium increases or additional premiums to pay for automatic or optional benefit increases. (3-31-22)

c. An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure. (3-31-22)

05. Continuation of Inflation Protection. Inflation protection benefit increases under a policy which contains these benefits continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy. (3-31-22)

06. Premium Disclosures. An offer of inflation protection that provides for automatic benefit increases includes an offer of a premium which the insurer expects to remain constant. The offer discloses in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant. (3-31-22)

07. Rejection of Offer. Inflation protection as provided in Subsection 017.01 is included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as prescribed in Subsection 017.07. The rejection may be either in the application or on a separate form. The rejection is considered a part of the application and states: "I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans _____, and I reject inflation protection (signature line: _____)." (3-31-22)

018. REQUIREMENTS FOR APPLICATION FORMS AND REPLACEMENT COVERAGE.

01. Application Forms. Application forms include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and producer, except where the coverage is sold without a producer, containing the questions may be used. With regard to a replacement policy issued to a group defined by Section 41-4603(a), Idaho Code, the following questions may be modified only to the extent necessary to elicit information about health or long-term care

insurance policies other than the group policy being replaced, provided that the certificate holder has been notified of the replacement. (3-31-22)()

a. Do you have another long-term care insurance policy or certificate in force (including insurance, Fraternal Benefit Societies, Managed Care Organization) or other similar organizations? (3-31-22)

b. Did you have another long-term care insurance policy or certificate in force during the last twelve (12) months? (3-31-22)

i. If so, with which company? (3-31-22)

ii. If that policy lapsed, when did it lapse? (3-31-22)

c. Are you covered by Medicaid? (3-31-22)

d. Do you intend to replace any of your medical or health insurance coverage with this policy (certificate)? (3-31-22)

02. Other Policy Disclosures. Producers list any other health insurance policies they have sold to the applicant. (3-31-22)

a. List policies sold that are still in force. (3-31-22)

b. List policies sold in the past five (5) years that are no longer in force. (3-31-22)

03. Solicitations Other Than Direct Response. Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its producer furnishes the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One (1) copy of the notice is retained by the applicant and an additional copy signed by the applicant is retained by the insurer. The prescribed notice is in a form based on the NAIC Model Regulation Attachment I. (3-31-22)

04. Direct Response Solicitations. Insurers using direct response solicitation methods deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The prescribed notice is in a form based on the NAIC Model Regulation Attachment II. (3-31-22)

05. Notice of Replacement. Where replacement is intended, the replacing insurer notifies, in writing, the existing insurer of the proposed replacement. The existing policy is identified by the insurer, name of the insured and policy number or address including zip code. Notice is made within five (5) working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner. (3-31-22)

06. Life Insurance Policy Replacement. Life insurance policies that accelerate benefits for long-term care comply with Section 018 if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer complies with the replacement requirements of IDAPA 18.03.04, "Replacement of Life Insurance and Annuities." If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing insurer complies with both the long-term care and the life insurance replacement requirements. (3-31-22)

019. REPORTING REQUIREMENTS.

01. Maintenance of Producer Records. Every insurer maintains records for each producer of that producer's amount of replacement sales as a percent of the producer's total annual sales and the number of lapses of long-term care insurance policies sold by the producer as a percent of the producer's total annual sales, in the format of Appendix G. (3-31-22)

02. Producers Experiencing Lapses and Replacements. Every insurer reports annually by June 30 the ten percent (10%) of its producers with the greatest percentages of lapses and replacements as measured by

Subsection 019.01. (3-31-22)

03. Purpose of Reports. Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely producer activities regarding the sale of long-term care insurance. (3-31-22)

04. Lapsed Policies. Every insurer reports annually by June 30, the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year. ~~(3-31-22)~~()

05. Replacement Policies. Every insurer reports annually by June 30 the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year. (3-31-22)

06. Claims Denied. Every insurer reports annually by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied, other than claims denied for failure to meet the waiting period or because of an applicable preexisting condition, in the format of Appendix E. (3-31-22)

07. Policies and Reports. For purposes of Section 019, “policy” means only long-term care insurance and “report” means on a statewide basis. (3-31-22)

a. Policy means only long-term care insurance; (3-31-22)

b. Claim means any request for payment of benefits under a policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met; (3-31-22)

c. Denied means the insurer refused to pay a claim for any reason; and (3-31-22)

d. Report means on a statewide basis. (3-31-22)

08. Filing. Reports prescribed under Section 019 are filed with the Director. (3-31-22)

020. LICENSING-(RESERVED)

~~No producer is authorized to sell, solicit, or negotiate with respect to long term care insurance except as authorized by Title 41, Chapter 10, Producer Licensing.~~ (3-31-22)

021. DISCRETIONARY POWERS OF DIRECTOR PLAN INNOVATION.

The director may upon written request and after an administrative hearing, issue an order to modify or suspend a specific provision or provisions of this ~~rule~~ chapter with respect to a specific long-term care insurance policy or certificate upon a written finding that: ~~(3-31-22)~~()

01. General Requirement. The modification or suspension would be in the best interest of the insureds; the purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care; or (3-31-22)

02. Residential Care Community. The policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or (3-31-22)

03. Other Insurance Products. The modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product. (3-31-22)

022. RESERVE STANDARDS.

01. Acceleration of Benefits Under Life Policies. When long-term care benefits are provided through

the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for the benefits are determined in accordance with Section 41-612, Idaho Code, Standard Valuation Law – Life Insurance. Claim reserves will also be established in the case when the policy or rider is in claim status. (3-31-22)

02. Decrement Models. Reserves for policies and riders subject to Section 022 should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, in no event can the reserves for the long-term care benefit and the life insurance benefit be less than the reserves for the life insurance benefit assuming no long-term care benefit. (3-31-22)

03. Considerations Impacting Projected Claim Costs. Any applicable valuation morbidity table is certified as appropriate as a statutory valuation table by a member of the American Academy of Actuaries. In the development and calculation of reserves for policies and riders subject to Section 022, due regard is given to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which have an impact on projected claim costs, including, but not limited to, the following: (3-31-22)

- a. Definition of insured events; (3-31-22)
- b. Covered long-term care facilities; (3-31-22)
- c. Existence of home convalescence care coverage; (3-31-22)
- d. Definition of facilities; (3-31-22)
- e. Existence or absence of barriers to eligibility; (3-31-22)
- f. Premium waiver provision; (3-31-22)
- g. Renewability; (3-31-22)
- h. Ability to raise premiums; (3-31-22)
- i. Marketing method; (3-31-22)
- j. Underwriting procedures; (3-31-22)
- k. Claims adjustment procedures; (3-31-22)
- l. Waiting period; (3-31-22)
- m. Maximum benefit; (3-31-22)
- n. Availability of eligible facilities; (3-31-22)
- o. Margins in claim costs; (3-31-22)
- p. Optional nature of benefit; (3-31-22)
- q. Delay in eligibility for benefit; (3-31-22)
- r. Inflation protection provisions; and (3-31-22)
- s. Guaranteed insurability option. (3-31-22)

04. Benefits Not Covered in Section 022. When long-term care benefits are provided other than as in

Subsection 022.01 above, reserves are determined in accordance with Section 41-608, Idaho Code, ~~“Reserve for Disability Insurance.”~~ (3-31-22)()

023. LOSS RATIO.

Section 023 applies to all (group and individual) long-term care insurance policies or certificates except those covered under Sections 024 and 025 of this chapter. (3-31-22)

01. Expected Loss Ratios. Benefits under long-term care insurance policies are reasonable in relation to premiums provided the expected loss ratio is at least sixty percent (60%), calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration is given to all relevant factors, including: (3-31-22)

- a. Statistical credibility of incurred claims experience and earned premiums; (3-31-22)
- b. The period for which rates are computed to provide coverage; (3-31-22)
- c. Experienced and projected trends; (3-31-22)
- d. Concentration of experience within early policy duration; (3-31-22)
- e. Expected claim fluctuation; (3-31-22)
- f. Experience refunds, adjustments or dividends; (3-31-22)
- g. Renewability features; (3-31-22)
- h. All appropriate expense factors; (3-31-22)
- i. Interest; (3-31-22)
- j. Experimental nature of the coverage; (3-31-22)
- k. Policy reserves; (3-31-22)
- l. Mix of business by risk classification; and (3-31-22)
- m. Product features such as long elimination periods, high deductibles and high maximum limits. (3-31-22)

02. Policies That Accelerate Benefits. Subsection 023.01 cannot apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is considered to provide reasonable benefits in relation to premiums paid, if the policy complies with all of the following provisions: (3-31-22)

a. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy; (3-31-22)

b. The portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of Section 41-1927, Idaho Code, Standard Nonforfeiture Law – Life Insurance. (3-31-22)

c. The policy meets the disclosure requirements of Sections 41-4605(9), 41-4605(10), and 41-4605(11), Idaho Code. (3-31-22)

i. Any policy illustration ~~that~~ meets the applicable requirements of the NAIC Life Insurance Illustrations Model Regulation. (3-31-22)()

- d. An actuarial memorandum is filed with the insurance department that includes: (3-31-22)
 - i. A description of the basis on which the long-term care rates were determined; (3-31-22)
 - ii. A description of the basis for the reserves; (3-31-22)
 - iii. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance; (3-31-22)
 - iv. A description and a table of each actuarial assumption used. For expenses, an insurer will include percent of premium dollars per policy and dollars per unit of benefits, if any; (3-31-22)
 - v. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives; (3-31-22)
 - vi. The estimated average annual premium per policy and the average issue age; (3-31-22)
 - vii. A statement as to whether underwriting is performed at the time of application. The statement indicates whether underwriting is used and, if used, the statement includes a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement indicates whether the enrollee or any dependent will be underwritten and when underwriting occurs; and (3-31-22)
 - viii. A description of the effect of the long-term care policy provision on the prescribed premiums, nonforfeiture values and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status. (3-31-22)

024. FILING REQUIREMENT.

Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state pursuant to Section 41-4604, Idaho Code, ~~Extraterritorial Jurisdiction—Group Long-Term Care Insurance~~, it files with the director evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state. ~~(3-31-22)~~()

01. Initial Filing Requirements. (3-31-22)

~~a. Subsection 024.01 applies to any long-term care policy issued in this state on or after July 1, 2001.~~ (3-31-22)

~~b. An insurer will provide the following information listed in Subsection 024.01 to the director thirty (30) days prior to making the long-term care insurance form available for sale.~~ (3-31-22)()

~~ea.~~ A copy of the disclosure documents prescribed in Section 014. (3-31-22)

~~eb.~~ An actuarial certification consisting of at least the following: (3-31-22)

i. A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated; (3-31-22)

ii. A statement that the policy design and coverage provided have been reviewed and taken into consideration; (3-31-22)

iii. A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration. (3-31-22)

e. A complete description of the basis for contract reserves that are anticipated to be held under the form, to include: (3-31-22)

- i. Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held; (3-31-22)
- ii. A statement that the assumptions used for reserves contain reasonable margins for adverse experience; (3-31-22)
- iii. A statement that the net valuation premium for renewal years does not increase (except for attained-age rating where permitted); and (3-31-22)
- iv. A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur; (3-31-22)
- v. An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship; (3-31-22)
- vi. If the gross premiums for certain age groups appear to be inconsistent with this requirement, the director may request a demonstration under Subsection 024.02 based on a standard age distribution; and (3-31-22)
- vii. A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits; or, (3-31-22)
- viii. A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences. (3-31-22)

02. Actuarial Demonstration. The director may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration includes either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other studies, or both. (3-31-22)

a. In the event the director requests additional information under this provision, the period referred to in Subsection 024.01.b. of this section does not include the period of time during which the insurer is preparing the requested information. (3-31-22)

025. PREMIUM RATE SCHEDULE INCREASES.

01. Premium Rate Increase Notice. An insurer provides notice of a pending premium rate schedule increase, including an exceptional increase, to the director at least thirty (30) days prior to the notice to the policyholders and includes: (3-31-22)

- a.** Information prescribed by Section 014. (3-31-22)
- b.** Certification by a qualified actuary that: (3-31-22)
 - i. If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated; and (3-31-22)
 - ii. The premium rate filing is in compliance with the provisions of this Section 025. (3-31-22)

02. Actuarial Memorandum. The actuarial memorandum justifying the rate schedule change request includes: (3-31-22)

a. Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method of assumptions used in determining the projected values, including reflection of

- any assumptions that deviate from those used for pricing other forms currently available for sale: (3-31-22)
- i. Annual values for the past five (5) years preceding and the three (3) years following the valuation date are provided separately; (3-31-22)
 - ii. The projections include the development of the lifetime loss ratio, unless the rate of increase is an exceptional increase; (3-31-22)
 - iii. The projections demonstrate compliance with Subsection 025.03; and (3-31-22)
 - iv. For exceptional increases; (3-31-22)
- (1) The projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and (3-31-22)
- (2) In the event the director determines as provided in Subsection 010.09.c. that offsets may exist, the insurer uses appropriate net projected experience. (3-31-22)
- b.** Disclosure of how reserves have been incorporated in this rate increase will trigger contingent benefit upon lapse. (3-31-22)
 - c.** Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary. (3-31-22)
 - d.** A statement that policy design, underwriting and claims adjudication practices have been taken into consideration; and in the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates. (3-31-22)
 - e.** A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the director; and sufficient information for review of the premium rate schedule increase by the director. (3-31-22)
- 03. Premium Rate Schedule Increases.** All premium rate schedule increases are determined in accordance with the following requirements: (3-31-22)
- a.** Exceptional increases provide that seventy percent (70%) of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits. (3-31-22)
 - b.** Premium rate schedule increases are calculated such that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following: (3-31-22)
 - i. The accumulated value of the initial earned premium times fifty eight percent (58%); (3-31-22)
 - ii. Eighty-five percent (85%) of the accumulated value of prior premium rate schedule increases on an earned basis; (3-31-22)
 - iii. The present value of future projected initial earned premiums times fifty-eight percent (58%); and (3-31-22)
 - iv. Eighty-five percent (85%) of the present value of future projected premiums not in Subsection 025.03.b.iii. on an earned basis. (3-31-22)
 - c.** In the event that a policy form has both exceptional and other increases, the values in Subsections 025.03.b.ii. and 025.03.b.iv., will also include seventy percent (70%) for exceptional rate increase amounts.

(3-31-22)

d. All present and accumulated values used to determine rate increases use the maximum valuation interest rate for contract reserves. The actuary discloses as part of the actuarial memorandum the use of any appropriate averages. (3-31-22)

04. Projections Filed for Review. For each rate increase that is implemented, the insurer files for review by the director updated projections, as defined in Subsection 025.02.a., annually for the following three (3) years and include a comparison of actual results to projected values. The director may extend the period to greater than three (3) years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in Subsection 025.13, the projections prescribed by this Subsection 025.04 are provided to the policyholder in lieu of filing with the director. (3-31-22)

05. Revised Premium Rate. If any premium rate in the revised premium rate schedule is greater than 200 percent (200%) of the comparable rate in the initial premium schedule, lifetime projections, as defined in Subsection 025.02.a., are filed for review by the director every five (5) years following the end of the prescribed period in Subsection 025.04. For group insurance policies that meet the conditions in Subsection 025.13, the projections prescribed by Subsection 025.05 are provided to the policyholder in lieu of filing with the director. (3-31-22)

06. Actual and Projected Experience. If the director has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of the premium specified in Subsection 025.03, the director may require the insurer to implement any of the following: (3-31-22)

a. Premium rate schedule adjustments; or (3-31-22)

i. Other measures to reduce the difference between the projected and actual experience. (3-31-22)

b. In determining whether the actual experience adequately matches the projected experience, consideration should be given to Subsection 025.02.d. and 025.02.e., if applicable. (3-31-22)

07. Contingent Benefit upon Lapse. If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer files: (3-31-22)

a. A plan, subject to director approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect. If the director should determine that such appropriate administration and claims processing functions have not been addressed, provisions of Subsection 025.08 may be applied; and (3-31-22)

b. The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to Subsection 025.03 had the greater of the original anticipated lifetime loss ratio or fifty-eight percent (58%) been used in the calculations described in Subsections 025.03.b.i. and 025.03.b.iii. (3-31-22)

08. Additional Rate Increase Filings. For a rate increase filing that meets the following criteria, the director reviews, for all policies included in the filing, the projected lapse rates and past lapse rates during the twelve (12) months following each increase to determine if significant adverse lapse has occurred or is anticipated: (3-31-22)

a. The rate increase is not the first rate increase requested for the specific policy form or forms; (3-31-22)

b. The rate increase is not an exceptional increase; and (3-31-22)

c. The majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse. (3-31-22)

d. In the event significant adverse lapse has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the director may determine that a rate spiral exists. Following the determination that a rate spiral exists, the director may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates. The offer will; (3-31-22)

i. Be subject to the approval of the director; (3-31-22)

ii. Be based on actuarially sound principles, but not be based on attained age; and (3-31-22)

iii. Provide that the maximum benefits under any new policy accepted by an insured is reduced by comparable benefits already paid under the existing policy. (3-31-22)

e. The insurer maintains the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase is limited to the lesser of: (3-31-22)

i. The maximum rate increase determined based on the combined experience; and (3-31-22)

ii. The maximum rate increase determined based only on the experience of the insureds originally issued the form plus ten percent (10%). (3-31-22)

09. Persistent Practice of Inadequate Rate Filings. If the director determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the director may, in addition to the provisions of Subsection 025.08 of this section, prohibit the insurer from either of the following: (3-31-22)

a. Filing and marketing comparable coverage for a period of up to five (5) years; or (3-31-22)

b. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases. (3-31-22)

10. Exceptions. Subsection 025.01 and 025.09 does not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in Subsection 010.12, if the policy complies with all of the following provisions: (3-31-22)

a. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy; (3-31-22)

b. The portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in any of the following: (3-31-22)

i. Section 41-1927, Idaho Code, ~~Standard Nonforfeiture Law Life Insurance;~~ (3-31-22)()

ii. Section 41-1927A, Idaho Code, ~~Standard Nonforfeiture Law for Individual Deferred Annuities;~~ (3-31-22)()

iii. IDAPA 18.03.03, Subsection 018.02, ~~“Variable Contracts.”~~ (3-31-22)()

11. Exceptions for Disclosure and Performance Standards. The policy meets the disclosure requirements of Sections 41-4605(9), 41-4605(10) and 41-4605(11), Idaho Code, ~~pertaining to the Disclosure and Performance Standards for Long-term Care Coverage.~~ (3-31-22)()

12. Exception If Actuarial Memorandum Filed Which Includes Defined Information. An actuarial

memorandum is filed with the Department of Insurance that includes: (3-31-22)

- a. A description of the basis on which the long-term care rates were determined; (3-31-22)
- b. A description of the basis for the reserves; (3-31-22)
- c. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance; (3-31-22)
- d. A description and a table of each actuarial assumption used. For expenses, an insurer will include percent of premium dollars per policy and dollars per unit of benefits, if any; (3-31-22)
- e. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives; (3-31-22)
- f. The estimated average annual premium per policy and the average issue age; (3-31-22)
- g. A statement as to whether underwriting is performed at the time of application. The statement indicates whether underwriting is used and, if used, the statement includes a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement indicates whether the enrollee or any dependent will be underwritten and when underwriting occurs; and (3-31-22)
- h. A description of the effect of the long-term care policy provision on the prescribed premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care claims status. (3-31-22)

13. Exceptions for Association Plans. Premium Rate Schedule Increases Subsections 025.06 and 025.08 cannot apply to group insurance policies as defined in Section 41-4603(4)(a), Idaho Code, where: (3-31-22)

a. The policies insure two hundred fifty (250) or more persons and the policyholder has five thousand (5,000) or more eligible employees of a single employer; or (3-31-22)

b. The policyholder, and not the certificate holders, pay a material portion of the premium, which cannot be less than twenty percent (20%) of the total premium for the group in the calendar year prior to the year a rate increase is filed. (3-31-22)

026. FILING REQUIREMENTS FOR ADVERTISING.

01. Filing and Retention. Every Insurer, Fraternal Benefit Society, Managed Care Organization, or other similar organization providing long-term care insurance or benefits in this state provides a copy of any long-term care insurance advertisement intended for use in this state whether through written, radio, or television medium to the Director of Insurance of this state for review and approval by the Director. In addition, all advertisements are retained by the insurer or other entity for at least five (5) years from the date the advertisement was first used; or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. (3-31-22)

02. Exemptions. The director may exempt from these requirements any advertising form or material when, in the director's opinion, this requirement cannot be reasonably applied. (3-31-22)

027. STANDARDS FOR MARKETING AND PRODUCER TRAINING.

01. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance coverage in this state, directly or through its producers, will: (3-31-22)

a. Establish marketing procedures and producer training requirements to assure that any marketing activities, including any comparison of policies by its producers will be fair and accurate. (3-31-22)

- b. Establish marketing procedures to assure excessive insurance is not sold or issued. (3-31-22)
- c. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following: “Notice to buyer: This policy cannot cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations.” (3-31-22)
- d. Provide copies of the disclosure forms prescribed in Subsection 014.10. (3-31-22)
- e. Provide an explanation of contingent benefit upon lapse as provided for in Subsection 032.04.b. and if applicable, the additional contingent benefit upon lapse provided to policies with fixed or limited premium paying period in Subsection 032.04.c. (3-31-22)
- f. ~~Inquire and m~~Make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance, and the types and amounts of any such insurance; except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not prescribed. (3-31-22)()
- g. Establish auditable procedures for verifying compliance with Subsection 027.01. (3-31-22)
- h. At solicitation, provide written notice to the prospective policyholder and certificate holder that Senior Health Insurance Benefits Advisors/SHIBA the program is available and the name, address and telephone number of the program. (3-31-22)()
- i. For long-term care insurance policies and certificates, use the terms “noncancellable” or “level premium” only when the policy or certificate conforms to Subsection 014.01.c. of this chapter. (3-31-22)()
- 02. Banned Practices.** In addition to the practices banned in Title 41, Chapter 13, Idaho Code, ~~Trade Practices and Frauds~~; the following acts and practices are banned: (3-31-22)()
- a. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy, or to take out a policy of insurance with another insurer. (3-31-22)
- b. High Pressure Tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance. (3-31-22)
- c. Cold Lead Advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company. (3-31-22)
- d. Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy. (3-31-22)
- 03. Associations.** With respect to the obligations set forth in Subsection 027.03, the primary responsibility of an association, as defined in Section 41-4603(4)(b), Idaho Code, when endorsing or selling long-term care insurance is to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold. (3-31-22)
- a. The insurer files with the insurance department the following material: (3-31-22)

- i. The policy and certificate; (3-31-22)
- ii. A corresponding outline of coverage; and (3-31-22)
- iii. All advertisements to be utilized. (3-31-22)
- b.** The association discloses in any long-term care insurance solicitation: (3-31-22)
 - i. The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and (3-31-22)
 - ii. A brief description of the process under which the policies and the insurer issuing the policies were selected. (3-31-22)
- c.** If the association and the insurer have interlocking directorates or trustee arrangements, the association discloses that fact to its members. (3-31-22)
- d.** The board of directors of associations selling or endorsing long-term care insurance policies or certificates reviews and approves the insurance policies as well as the compensation arrangements made with the insurer. (3-31-22)
- e.** The association also will: (3-31-22)
 - i. At the time of the association’s decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates, and update the examination thereafter in the event of material change; (3-31-22)
 - ii. Actively monitor the marketing efforts of the insurer and its producers; and (3-31-22)
 - iii. Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates. (3-31-22)
 - iv. Subsections 027.03.e.i. through 027.03.e.iii. cannot apply to qualified long-term care insurance contracts. (3-31-22)
- f.** No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the state insurance department the information prescribed in Section 027. (3-31-22)
- g.** The insurer cannot issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in Section 027. (3-31-22)
- h.** Failure to comply with the filing and certification requirements of Section 027 constitutes an unfair trade practice in violation of Title 41, Chapter 13, Idaho Code, ~~Trade Practices and Frauds.~~ (3-31-22)()

04. Producer Training Requirements. An individual cannot sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for life and disability (accident and health insurance) and has completed a one-time training course and ongoing training every twenty-four (24) months thereafter. The training meets the requirements set forth in this Subsection 027.04. Such training requirements may be approved as continuing education course under [IDAPA 18.06.04](#), “Continuing Education.” (3-31-22)

a. The one-time training course prescribed by this section is no less than eight (8) hours. In addition to the one-time training course, an individual who sells, solicits, or negotiates long-term care insurance completes the ongoing training prescribed by this Subsection 027.04, which is no less than four (4) hours every twenty four (24) months. (3-31-22)

b. The training prescribed under Subsection 027.04.a. consists of topics related to long-term care insurance, long-term care services and qualified state long-term care insurance partnership program, including, but not limited to: (3-31-22)

i. State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid; (3-31-22)

ii. Available long-term care services and providers; (3-31-22)

iii. Changes or improvements in long-term care services or providers; (3-31-22)

iv. Alternatives to the purchase of private long-term care insurance; (3-31-22)

v. The effect of inflation on benefits and the importance of inflation protection; and (3-31-22)

vi. Consumer suitability standards and guidelines. (3-31-22)

c. The training prescribed by Subsection 027.04. cannot include any sales or marketing information, materials, or training, other than those prescribed by state and federal law. (3-31-22)

d. Insurers subject to this rule obtain verification that a producer receives training prescribed by Subsection 027.04 before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records subject to the state's record retention requirements, and make that verification available to the director upon request. An insurer maintains records with respect to the training of its producers concerning the distribution of its long-term care Partnership policies that will allow the Department of Insurance to provide assurance to the Division of Medicaid that the producers have received the training as prescribed by Subsection 027.04 and that producers have demonstrated an understanding of the Partnership policies and their relationship to public and private coverage of long-term care including Medicaid in this state. These records are maintained in accordance with the state's record retention requirements and made available to the director upon request. (3-31-22)

e. The satisfaction of these training requirements in any state satisfy the training requirements of this state. (3-31-22)

028. SUITABILITY.

01. Life Insurance Policies That Accelerate Benefits. Section 028 cannot apply to life insurance policies that accelerate benefits for long-term care. (3-31-22)

02. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance (the "issuer") will: (3-31-22)

a. Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant; (3-31-22)

b. Train its producers in the use of its suitability standards; and (3-31-22)

c. Maintain a copy of its suitability standards and make them available for inspection upon request by the director. (3-31-22)

03. Determination of Standards. To determine whether the applicant meets the standards developed by the issuer; (3-31-22)

a. The producer and issuer develop procedures that take the following into consideration: (3-31-22)

i. The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage; (3-31-22)

ii. The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and (3-31-22)

iii. The values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement. (3-31-22)

b. The issuer and producer, if involved, make reasonable efforts to obtain the information set out in Subsection 028.03. The efforts include presentation to the applicant, at or prior to application, the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the issuer contains, at a minimum, the information in the format contained in the NAIC Model Regulations in Appendix B, in not less than twelve (12) point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet is filed with the director. (3-31-22)

i. Copies of NAIC Model Regulations for Long-Term Care Insurance Minimum Standards Appendixes B, C, and D can be found at the Idaho Department of Insurance website. (3-31-22)

c. A completed personal worksheet is returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses. (3-31-22)

d. The sale or dissemination outside the company or agency by the issuer or producer of information obtained through the personal worksheet in the NAIC Model Regulations, Appendix B is banned. (3-31-22)

04. Appropriateness. The issuer uses the suitability standards it has developed pursuant to Section 028 in determining whether issuing long-term care insurance coverage to an applicant is appropriate. (3-31-22)

05. Use of Standards. Producers use the suitability standards developed by the issuer in marketing long-term care insurance. (3-31-22)

06. Disclosure Form. At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" is provided. The form is in the format contained in the NAIC Model Regulations, Appendix C, in not less than twelve (12) point type. (3-31-22)

07. Rejection and Alternatives. If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer sends the applicant a letter similar to the NAIC Model Regulations, Appendix D. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification is made part of the applicant's file. (3-31-22)

08. Reporting. The issuer reports annually to the director the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter. (3-31-22)

029. PROHIBITION AGAINST PREEXISTING CONDITIONS AND PROBATIONARY PERIODS IN REPLACEMENT POLICIES OR CERTIFICATES.

If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer waives any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy. (3-31-22)

030. AVAILABILITY OF NEW SERVICES OR PROVIDERS.

01. Notification to Policyholder. An insurer notifies the policyholder of the availability of a new long-

term care policy that provides coverage for new long-term care services or providers material in nature and not previously available through the insurer to the general public. The notice is provided within twelve (12) months of the date the new policy is made available for sale in this state. (3-31-22)

02. Exceptions to Notification Requirements. Notwithstanding Subsection 030.01, notification is not prescribed ~~needed~~ for any ~~policy issued prior to the effective date of this Section 030 or to any~~ policyholder who is currently eligible for benefits, within an elimination period or on claim, or who previously has been in claim status, or who would not be eligible to apply for coverage due to issue age limitations under the new policy. The insurer may ~~require~~ expect that policyholders meet all eligibility requirements, including underwriting and payment of the prescribed premium to add such new services or providers. (3-31-22)()

03. New Coverage. The insurer makes the new coverage available in one of the following ways: (3-31-22)

a. By adding a rider to the existing policy and charging a separate premium for the new rider based on the insured's attained age; (3-31-22)

b. By exchanging the existing policy or certificate for one with an issue age based on the present age of the insured and recognizing past insured status by granting premium credits toward the premiums for the new policy or certificate. The premium credits are based on premiums paid or reserves held for the prior policy or certificate. (3-31-22)

c. By exchanging the existing policy or certificate for a new policy or certificate in which consideration for past insured status is recognized by setting the premium for the new policy or certificate at the issue age of the policy or certificate being exchanged. The cost of the new policy or certificate may recognize the difference in reserves between the new policy or certificate and the original policy or certificate; or (3-31-22)

d. By an alternative program developed by the insurer that meets the intent of Section 030 if the program is filed with and approved by the Director. (3-31-22)

04. Proprietary Policy. An insurer is not prescribed to notify policyholders of a new proprietary policy created and filed for use in a limited distribution channel. For purposes of this Subsection 030.04, "limited distribution channel" means through a discrete entity, such as a financial institution or brokerage, for which specialized products are available that are not available for sale to the general public. Policyholders that purchased such a proprietary policy are notified when a new long-term care policy that provides coverage for new long-term care services or providers material in nature is made available to that limited distribution channel. (3-31-22)

05. Exchanges and Not Replacements. Policies issued pursuant to this Section 030 are considered exchanges and not replacements. These exchanges are not subject to Section 018, and Section 028, and the reporting requirements of Section 019.01. through 019.05. of this rule. (3-31-22)

06. Employer Sponsored Plan. Where the policy is offered through an employer, labor organization, professional, trade or occupational association, the prescribed notification in Subsection 030.01 is made to the offering entity. However, if the policy is issued to a group defined in Section 41-4603 (04) (d), Idaho Code, Long Term Care Insurance Act, the notification is made to each certificateholder. (3-31-22)

07. Nothing Prohibits an Insurer From Offering Coverage. Nothing in this Section 030 prohibits an insurer from offering any policy, rider, certificate or coverage change to any policyholder or certificate-holder. However, upon request any policyholder may apply for currently available coverage that includes the new services or providers. The insurer may require that policyholders meet eligibility requirements, including underwriting and payment of the prescribed premium to add such new services or providers. (3-31-22)

08. Not Applicable to Life Insurance Policies. This Section 030 does not apply to life insurance policies or riders containing accelerated long-term care benefits. (3-31-22)

031. RIGHT TO REDUCE COVERAGE AND LOWER PREMIUMS.

01. Reduction of Coverage. Every long-term care insurance policy and certificate includes a provision that allows the policyholder or certificateholder to reduce coverage and lower the policy or certificate premium in at least one of the following ways: (3-31-22)

- a.** Reducing the maximum benefit; or (3-31-22)
- b.** Reducing the daily, weekly or monthly benefit amount. (3-31-22)
- c.** The insurer may also offer other reduction options that are consistent with the policy or certificate design or the carrier's administrative processes. (3-31-22)

02. Implementing a Reduction in Coverage. The provision includes a description of the ways in which coverage may be reduced and the process for requesting and implementing a reduction in coverage. (3-31-22)

03. Determination of Premium for Reduced Coverage. The age to determine the premium for the reduced coverage is based on the age used to determine the premiums for the coverage currently in force. (3-31-22)

04. Limitations for the Reduction of Coverage. The insurer may limit any reduction in coverage to plans or options available for that policy form and to those for which benefits will be available after consideration of claims paid or payable. (3-31-22)

05. Notification in Regard to the Possible Lapse of Policy. If a policy or certificate is about to lapse, the insurer provides a written reminder to the policyholder or certificateholder of their right to reduce coverage and premiums in the notice prescribed by Subsection 013.01.c. of this rule. (3-31-22)

06. Not Applicable to Life Insurance Policies or Riders Containing Accelerated Benefits. This Section 031 does not apply to life insurance policies or riders containing accelerated long-term care benefits. (3-31-22)

07. Compliance Requirements. The requirements of this Section 031 apply to any long-term care policy issued in this state on or after November 1, 2007. Compliance with this Section 031 may be accomplished by policy replacement, exchange or by adding the prescribed provision via amendment or endorsement to the policy. (3-31-22)

032. NONFORFEITURE BENEFIT REQUIREMENT.

01. Life Insurance Policies That Accelerate Benefits. Section 032 does not apply to life insurance policies or riders containing accelerated long-term care benefits. (3-31-22)

02. Nonforfeiture Benefits. To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of Section 41-4607, Idaho Code, every Insurer, Fraternal Benefit Society, Managed Care Organization, or other similar organization marketing long-term care insurance coverage in this state satisfies the following: (3-31-22)

a. A policy or certificate offered with nonforfeiture benefits will have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer is the benefit described in Subsection 032.04.e. (3-31-22)

b. The offer is in writing if the nonforfeiture benefit is not described in the Outline of Coverage or other materials given to the prospective policyholder. (3-31-22)

03. Contingent Benefit. If the offer prescribed under Section 41-4607, Idaho Code, is rejected, the insurer provides the contingent benefit upon lapse described in Section 032. Even if this offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit on lapse in Subsection 032.04.b.i. still applies. (3-31-22)

04. Rejection of Offer. After rejection of the offer prescribed under Section 41-4607, Idaho Code, as it pertains to nonforfeiture benefits, for individual and group policies without nonforfeiture benefits issued after ~~the~~

effective date of Section 032 April 5, 2000, the insurer provides a contingent benefit upon lapse. (3-31-22)()

a. In the event a group policyholder elects to make the nonforfeiture benefit an option to the certificate holder, a certificate provides either the nonforfeiture benefit or the contingent benefit upon lapse. (3-31-22)

b. A contingent benefit on lapse is triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth within Subsection 032.04 based on the insured's issue age, and the policy or certificate lapses within one hundred twenty (120) days of the due date of the premium so increased. Unless otherwise prescribed, policyholders are notified at least thirty (30) days prior to the due date of the premium reflecting the rate increase.

Table: Issue Age - Percent Increase Over Initial Premium			
Issue Age	Percent Increase Over Initial Premium	Issue Age	Percent Increase Over Initial Premium
29 and under	200%	72	36%
30-34	190%	73	34%
35-39	170%	74	32%
40-44	150%	75	30%
45-49	130%	76	28%
50-54	110%	77	26%
55-59	90%	78	24%
60	70%	79	22%
61	66%	80	20%
62	62%	81	19%
63	58%	82	18%
64	54%	83	17%
65	50%	84	16%
66	48%	85	15%
67	46%	86	14%
68	44%	87	13%
69	42%	88	12%
70	40%	89	11%
71	38%	90 and over	10%

(3-31-22)

i. A contingent benefit on lapse is also triggered for policies with a fixed or limited premium paying period every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, the policy or certificate lapses within one hundred twenty (120) days of the due date of the premium so increased, and the ratio in Subsection 032.04.d.ii. is forty percent (40%) or more. Unless otherwise prescribed, policyholders are notified at least thirty (30) days prior to the due date of the premium reflecting the rate

increase.

Triggers For A Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

This provision is in addition to the contingent benefit provided by Subsection 032.04.b. and where both are triggered, the benefit provided is at the option of the insured. (3-31-22)

c. On or before the effective date of a substantial premium increase as defined in Subsection 032.04.b., the insurer: (3-31-22)

i. Offers to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that premium payments are not increased; (3-31-22)

ii. Offers to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of Subsection 032.04.e. This option may be elected at any time during the one hundred twenty (120) day period referenced in Subsection 032.04.b.; and (3-31-22)

iii. Notifies the policyholder or certificate holder that a default or lapse at any time during the one hundred twenty (120) day period referenced in Subsection 032.04.b. is the election of the offer to convert in Subsection 032.04.c.ii. unless the automatic option in Subsection 032.04.d.iii. applies. (3-31-22)

d. On or before the effective date of a substantial premium increase as defined in Subsection 032.04.b.i., the insurer: (3-31-22)

i. Offers to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that premium payments are not increased; (3-31-22)

ii. Offers to convert the coverage to a paid-up status where the amount payable for each benefit is ninety percent (90%) of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the one hundred twenty (120) day period referenced in Subsection 032.04.b.i.; and (3-31-22)

iii. Notifies the policyholder or certificateholder that a default or lapse at any time during the one hundred twenty (120) day period referenced in Subsection 032.04.b.i. is the election of the offer to convert in Subsection 032.04.d.ii. above if the ratio is forty percent (40%) or more. (3-31-22)

e. Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse, in accordance with Subsection 032.04.b. but not Subsection 032.04.b.i. are described in Subsection 032.04.e. (3-31-22)

i. For purposes of this Subsection 032.04.e., attained age rating is defined as a schedule of premiums starting from the issue date which increases age at least one percent (1%) per year prior to age fifty (50), and at least three percent (3%) per year beyond age fifty (50); (3-31-22)

ii. For purposes of Subsection 032.04.e., the nonforfeiture benefit is of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits are determined as specified in Subsection 032.04.e.iii.; (3-31-22)

iii. The standard nonforfeiture credit will be equal to one hundred percent (100%) of the sum of all

premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit cannot be less than thirty (30) times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of Subsection 032.04.f.; (3-31-22)

iv. The nonforfeiture benefit begins not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse is effective during the first three (3) years as well as thereafter. (3-31-22)

v. Notwithstanding Subsection 032.04.e.iv. for a policy or certificate with attained age rating, the nonforfeiture benefit begins on the earlier of: (3-31-22)

(1) The end of the tenth year following the policy or certificate issue date; or (3-31-22)

(2) The end of the second year following the date the policy or certificate is no longer subject to attained age rating. (3-31-22)

vi. Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate. (3-31-22)

f. All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid-up status will not exceed the maximum benefits which would be payable if the policy or certificate had remained in premium paying status. (3-31-22)

g. There is no difference in the minimum nonforfeiture benefits as prescribed under Section 032 for group and individual policies. (3-31-22)

h. For certificates issued ~~on or after the effective date of this Section 032,~~ under a group long-term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, which policy was in force ~~at the time this rule became effective on April 5, 2000, only~~ the ~~provisions of Section 032 cannot apply.~~ (3-31-22)

~~i. The last sentence in Subsection 032.03 and Subsection 032.04.b.i. and Subsection 032.04.d. applies to any long-term care insurance policy defined in Section 41-4603(4)(a), Idaho Code one (1) year after adoption apply after April 30, 2008. (3-31-22)()~~

i. Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse are subject to the loss ratio requirements of Section 023 or Section 025, whichever is applicable, treating the policy as a whole. (3-31-22)

j. To determine whether contingent nonforfeiture upon lapse provisions are triggered under Subsection 032.04.b. or 032.04.b.i., a replacing insurer that purchased or assumed a block or blocks of long-term care insurance policies from another insurer calculates the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer. (3-31-22)

k. A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts is offered that meets the following requirements: (3-31-22)

i. The nonforfeiture provision is appropriately captioned; (3-31-22)

ii. The nonforfeiture provision provides a benefit available in the event of a default on the payment of any premiums and states that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts filed for review with the Director for the same contract form; and (3-31-22)

iii. The nonforfeiture provision provides at least one (1) of the following: (3-31-22)

- (1) Reduced paid-up insurance; (3-31-22)
- (2) Extended term insurance; (3-31-22)
- (3) Shortened benefit period; or (3-31-22)
- (4) Other similar offerings approved by the Director. (3-31-22)

033. STANDARDS FOR BENEFIT TRIGGERS.

01. Conditions of Benefits Payment. A long-term care insurance policy conditions the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits is not more restrictive than requiring either a deficiency in the ability to perform not more than three (3) of the activities of daily living or the presence of cognitive impairment. (3-31-22)

02. Activities of Daily Living. Insurers may use activities of daily living to trigger covered benefits in addition to those contained in Subsection 033.02 as long as they are defined in the policy. Activities of daily living includes at least the following as defined in Section 010 and in the policy. (3-31-22)

- a. Bathing; (3-31-22)
- b. Continence; (3-31-22)
- c. Dressing; (3-31-22)
- d. Eating; (3-31-22)
- e. Toileting; and (3-31-22)
- f. Transferring. (3-31-22)

03. Additional Provisions. An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate; however the provisions cannot restrict, and are not in lieu of, the requirements contained in Subsections 033.01 and 033.02. (3-31-22)

04. Determinations of Deficiency. For purposes of Section 033 the determination of a deficiency cannot be more restrictive than: (3-31-22)

- a. Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or (3-31-22)
- b. If the deficiency is due to the presence of ~~a~~ cognitive impairment, needing supervision or verbal cueing by another person ~~is needed~~ to protect the insured or others. (3-31-22)()

05. Assessments. Assessments of activities of daily living and cognitive impairment are performed by licensed or certified professionals, such as physicians, nurses or social workers. (3-31-22)

06. Appeals. Long-term care insurance policies include a clear description of the process for appealing and resolving benefit determinations. (3-31-22)

07. Effective Date. The requirements set forth in Section 033 are effective ~~within twelve (12) months of the effective date of the rule~~ April 5, 2000 and apply ~~as follows:~~ (3-31-22)

- ~~a. Except as provided in Subsection 033.07.b. the provisions of Section 033 apply to a long-term care policy issued in this state on or after the effective date of the rule. (3-31-22)~~
- ~~b. F after to that date, other than f~~ for certificates issued ~~on or after the effective date of Section 033,~~

under a group long-term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, which was in force ~~at the time this rule became effective, the provisions of Section 033 do not apply prior to that date.~~ (3-31-22)()

034. ADDITIONAL STANDARDS FOR BENEFIT TRIGGERS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

01. Definitions. For purposes of Section 034 the following definitions apply: (3-31-22)

a. Qualified long-term care services means services that meet the requirements of Section 7702B(a)(1) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation, and rehabilitative services and maintenance or personal care services which are prescribed by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner. (3-31-22)

b. Chronically ill individual has the meaning prescribed for this term by Section 7702B(c)(2) of the Internal Revenue Code of 1986, as amended. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as:

i. Being unable to perform (without substantial assistance from another individual) at least two (2) activities of daily living for a period of at least ninety (90) days due to a loss of functional capacity; or (3-31-22)

ii. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment. (3-31-22)

c. The term chronically ill individual cannot include an individual meeting these requirements unless within the preceding twelve (12) month period a licensed health care practitioner has certified that the individual meets these requirements. (3-31-22)

d. Licensed health care practitioner means a physician, as defined in Section 1861(r)(1) of the Social Security Act, and a registered professional nurse, licensed social worker, or other individual who meets requirements prescribed by the Secretary of the Treasury. (3-31-22)

e. Maintenance or personal care services means any care, the primary purpose of which is the provision of needed assistance with any of the disabilities, the existence of which leads to the conclusion that the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment). (3-31-22)

02. The Chronically Ill. A qualified long-term care insurance contract pays for qualified long-term care services received by a chronically ill individual provided pursuant to a plan of care prescribed by a licensed health care practitioner. (3-31-22)

03. Payments and Conditions. A qualified long-term care insurance contract conditions the payment of benefits on a determination of the insured's inability to perform activities of daily living for an expected period of at least ninety (90) days due to a loss of functional capacity; or to severe cognitive impairment. (3-31-22)

04. Certifications by Professionals. Certifications regarding activities of daily living and cognitive impairment prescribed pursuant to Subsection 034.03 are performed by licensed or certified professionals, such as physicians, registered professional nurses, licensed social workers, or other individuals who meet requirements prescribed by the Secretary of the Treasury. (3-31-22)

05. Certifications by Carrier. Certification prescribed pursuant to Subsection 034.03 may be performed by a licensed health care professional at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least ninety (90) days due to a loss of functional capacity and the insured is in claim status, the certification cannot be rescinded and additional certifications cannot be performed until after the expiration of the ninety (90) day period. (3-31-22)

06. Appeals. Qualified long-term care contracts include a clear description of the process for appealing and resolving benefit determinations. (3-31-22)

035. STANDARD FORMAT OUTLINE OF COVERAGE.

Section 035 of the rule implements, interprets and makes specific, the provisions of Section 41-4605(7)(a), Idaho Code, in prescribing a standard format and the content of an outline of coverage. (3-31-22)

01. Format. The outline of coverage is a freestanding document, using no smaller than ten (10) point type. Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring. (3-31-22)

02. Content. The outline of coverage contains no material of an advertising nature. (3-31-22)

03. Standard Form. Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated. Format for the outline of coverage is published on the Department of Insurance website. (3-31-22)

036. REQUIREMENT TO DELIVER SHOPPER'S GUIDE.

01. Approved Format. A long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners, or a guide developed or approved by the director, is provided to all prospective applicants of a long-term care insurance policy or certificate. (3-31-22)

a. In the case of producer solicitations, a producer will deliver the shopper's guide prior to the presentation of an application or enrollment form. (3-31-22)

b. In the case of direct response solicitations, the shopper's guide will be presented in conjunction with any application or enrollment form. (3-31-22)

02. Exceptions. Life insurance policies or riders containing accelerated long-term care benefits are not obligated to furnish the above-referenced guide, but furnish the policy summary prescribed under Section 41-4605(9), Idaho Code, Disclosure and Performance Standards for Long-Term Care Insurance. (3-31-22)

037. PENALTIES.

In addition to any other penalties provided by the laws of this state any insurer and any producer found to have violated any requirement of this state relating to the marketing of such insurance or of IDAPA 18.04.11, "Long-Term Care Insurance Minimum Standards," is subject to an administrative penalty of up to three (3) times the amount of any commissions paid for each policy involved in the violation or up to ten thousand dollars (\$10,000), whichever is greater. (3-31-22)

038. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.04.12 – THE SMALL EMPLOYER HEALTH INSURANCE AND AVAILABILITY ACT

DOCKET NO. 18-0412-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-4715, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, August 7, 2025 2:00 p.m. – 4:00 p.m.
In-person participation is available at: Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
Web meeting link: Click here to join the meeting Meeting ID: 237 139 719 159 3 Passcode: jk3o9Ur2 Download Teams Join on the web

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 purpose of this chapter is to promote broader spreading of risk in the small employer marketplace.

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

No fee or charge imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2025, Idaho Administrative Bulletin, [Volume 25-5, pages 52-53](#) under docket number 18-ZBRR-2501.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 2nd day of July, 2025.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0412-2501
(ZBR Chapter Rewrite.)

18.04.12 – THE SMALL EMPLOYER HEALTH INSURANCE AND AVAILABILITY ACT

000. LEGAL AUTHORITY.

~~Title 41, Chapters 2 and 47~~ Section 41-211 and Section 41-4715, Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

~~01. Title. IDAPA 18.04.12, “The Small Employer Health Insurance and Availability Act.”~~ (3-31-22)

~~02. Scope. The Act and t~~This chapter ~~are~~ is intended to promote broader spreading of risk in the small employer marketplace and to regulate all health benefit plans sold to small employers, whether sold directly or through associations or other groupings of small employers. Carriers that provide health benefit plans to small employers are intended to be subject to all of the provisions of ~~the Act~~ Title 41, Chapter 47 and this chapter. (3-31-22)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

~~As used in this chapter:~~ (3-31-22)

01. Associate Member. Any individual who participates in an employee benefit plan (as defined in 29 U.S.C. Section 1002(1)) that is a multi-employer plan (as defined in 29 U.S.C. Section 1002(37A)), other than the following: (3-31-22)

a. An individual (or the beneficiary of such individual) who is employed by a participating employer within a bargaining unit covered by at least one (1) of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained; or (3-31-22)

b. An individual who is a present or former employee (or a beneficiary of such employee) of the sponsoring employee organization, of an employer who is or was a party to at least one (1) of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained, or of the

employee benefit plan (or of a related plan). (3-31-22)

02. Expense. The cost incurred for a covered service or supply. A physician or other licensed practitioner orders or prescribes the service or supply. Expense is considered incurred on the date the service or supply is received. Expense does not include any charge: (3-31-22)

a. For a service or supply that is not medically necessary; or (3-31-22)

b. ~~That is i~~n excess of reasonable and customary charge for a service or supply. ~~(3-31-22)()~~

03. Geographic Area. A sector of land, as designated by the health carrier, ~~which that~~ employers ~~sitused located~~ within receive a specified rating factor. Geographic areas are limited to no more than six (6) designated areas, with no area being smaller than a county. ~~(3-31-22)()~~

04. Medically Necessary Service or Supply. One that is ordered by a physician and that the small-employer carrier or a qualified party determines is: ~~(3-31-22)()~~

a. Provided for the diagnosis or direct treatment of an injury or sickness; (3-31-22)

b. Appropriate and consistent with the symptoms and findings of diagnosis and treatment of the insured persons injury or sickness; (3-31-22)

c. Is not considered experimental or investigative; (3-31-22)

d. Provided in accord with generally accepted medical practice; (3-31-22)

e. The most appropriate supply or level of service which can be provided on a cost-effective basis. The fact that the insured person's physician prescribes services or supplies does not automatically mean such service or supply are medically necessary and covered by the policy. (3-31-22)

05. New Entrant. An eligible employee, or the dependent of an eligible employee, who becomes part of an employer group after the initial period for enrollment in a health benefit plan. (3-31-22)

~~06. Pre-Existing Condition. (3-31-22)~~

~~a. A condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; (3-31-22)~~

~~b. A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or (3-31-22)~~

~~c. A pregnancy existing on the effective date of coverage. (3-31-22)~~

~~d. Genetic information will not be considered as a condition described in this definition in the absence of a diagnosis of the condition related to such information. (3-31-22)~~

07. Risk Characteristic. The health status, claims experience, duration of coverage, or any similar characteristic related to the health status or claims experience of a small employer group or of any member of a small employer group. Such characteristics can include family composition, group size, industry. (3-31-22)

08. Risk Load. The percentage above the applicable base premium rate that is charged by a small employer carrier to the rates of the small employer group, to reflect the risk characteristics of the small employer group. (3-31-22)

~~09. ASSESSMENTS.
Prior to March 1st of each year the Board determines and files with the Director an estimate of the assessments~~

~~needed to fund the losses incurred by the Idaho Small Employer Reinsurance Program in the previous calendar year. This interim assessment is based on the assessment formula set forth in Section 41-4711(12)(e), Idaho Code. Initial or interim assessments paid will be credited to each carrier's account when the amounts needed to fund losses and pay program expenses are known.~~ (3-31-22)

~~012~~**1.** -- 014. (RESERVED)

015. APPLICABILITY.

01. Applicability. This chapter applies to any health benefit plan provided on a group basis, that: (3-31-22)

- a.** Meets one (1) or more of the conditions set forth in Section 41-4704, Idaho Code; and (3-31-22)
- b.** Offers coverage to two (2) or more eligible employees of a small employer located in this state, without regard to whether the policy or certificate was issued in this state. (3-31-22)

02. Group Policy or Trust Arrangement. The provisions of the Act and this chapter applies to a health benefit plan provided to a small employer or to the eligible employees of a small employer without regard to whether the health benefit plan is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group unless such health benefit plan(s) are subject to Title 41, Chapter 52, Idaho Code. (3-31-22)

~~**03. Group Policy or Trust Arrangement.** The provisions of the Act and this chapter applies to a health benefit plan provided to a small employer or to the eligible employees of a small employer without regard to whether the health benefit plan is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group. (3-31-22)~~

04. Subsequent Employment of More Than Fifty Eligible Employees. If a small employer is issued a health benefit plan under the terms of the Act, the provisions of the Act and this chapter continue to apply to the health benefit plan in the case that the small employer subsequently employs more than fifty (50) eligible employees. A carrier providing coverage to such an employer, within sixty (60) days of becoming aware that the employer has more than fifty (50) eligible employees but no later than the anniversary date of the employer's health benefit plan, notifies the employer that the protections provided under the Act and this chapter cease to apply to the employer if such employer fails to renew its current health benefit plan or elects to enroll in a different health benefit plan. (3-31-22)

05. Employer Subsequently Becomes a Small Employer. If a health benefit plan is issued to an employer that is not a small employer as defined in the Act, but subsequently the employer becomes a small employer (due to the loss or change of work status of one or more employees), the terms of the Act do not apply to the health benefit plan. The carrier providing a health benefit plan to such an employer does not become a small employer carrier under the terms of the Act solely because the carrier continues to provide coverage under the health benefit plan to the employer. (3-31-22)

06. Time Period for Notification of Options to Employer. A carrier providing coverage to an employer described in Subsection 015.05, within sixty (60) days of becoming aware that the employer has fifty (50) or fewer eligible employees, notifies the employer of the options and protections available to the employer under the Act, including the employer's option to purchase a small employer health benefit plan from any small employer carrier. (3-31-22)

07. Employees in More Than One State. If a small employer has employees in more than one (1) state, the provisions of the Act and this chapter apply to a health benefit plan issued to the small employer if: (3-31-22)

- a.** The majority of eligible employees of such small employer are employed in this state; or (3-31-22)
- b.** If no state contains a majority of the eligible employees of the small employer, the primary business

location of the small employer is in this state. (3-31-22)

087. Laws of This State or Another State. In determining whether the laws of this state or another state apply to a health benefit plan issued to a small employer described in Subsection 015.07, the provisions of the paragraph is applied as of the date the health benefit plan was issued to the small employer for the period that the health benefit plan remains in effect. (3-31-22)

098. Health Benefit Plan Subject to The Act and This Chapter. If a health benefit plan is subject to the Act and this chapter, the provisions of the Act and this chapter applies to all individuals covered under the health benefit plan, whether they reside in this state or in another state. (3-31-22)

409. When Is a Small Employer Carrier Not Subject to the Act and This Chapter. A carrier that is not operating as a small employer carrier in this state does not become subject to the provisions of the Act and this chapter solely because a small employer that was issued a health benefit plan in another state by that carrier moves to this state. (3-31-22)

016. -- 020. (RESERVED)

021. ESTABLISHMENT OF CLASSES OF BUSINESS.

01. Supporting Documentation for Establishment of Classes of Business. A small employer carrier that establishes more than one class of business pursuant to the provisions of Section 41-4705, Idaho Code, maintains on file for inspection by the Director the following information with respect to each class of business so established: (3-31-22)

a. A description of each criterion employed by the carrier (or any of its agents) for determining membership in the class of business; (3-31-22)

b. A statement describing the justification for establishing the class as a separate class of business and documentation that the establishment of the class of business is intended to reflect substantial differences in expected claims experience or administrative costs related to the reasons set forth in Section 41-4705, Idaho Code; and (3-31-22)

c. A statement disclosing that, if any, health benefit plans are currently available for purchase in the class and any significant limitations related to the purchase of such plans. (3-31-22)

02. Group Size Is Not a Class of Business. A carrier will not directly or indirectly use group size as a criterion for establishing eligibility for a health benefit plan or for a class of business. (3-31-22)

022. -- 027. (RESERVED)

028. TRANSITION FOR ASSUMPTIONS OF BUSINESS FROM ANOTHER CARRIER.

01. Conditions for Transfer or Assumption of Entire Insurance Obligation. A small employer carrier will not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering a small employer in this state unless: (3-31-22)

a. The transaction received any necessary approval of the insurance supervisory official of the state of domicile of the assuming carrier; (3-31-22)

b. The transaction received any necessary approval of the insurance supervisory official of the state of domicile of the ceding carrier; and, (3-31-22)

c. The transaction meets the other requirements of this Section. (3-31-22)

02. Time Frame for Filing Plan to Assume or Cede Entire Insurance Obligation. A carrier domiciled in this state that proposes to assume or cede the entire insurance obligation and/or risk of one or more small

employer health benefit plans from another carrier makes a filing for approval with the Director at least sixty (60) days prior to the date of the proposed assumption. The Director may approve the transaction if the Director finds that the transaction is in the best interests of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of the Act and this chapter. The Director will not approve the transaction until at least thirty (30) days after the date of the filing; except that, if the ceding carrier is in hazardous financial condition, the Director may approve the transaction as soon as the Director deems reasonable. (3-31-22)

03. Filing Requirements. The filing for Subsection 028.02 will: (3-31-22)

a. Describe the class of business (including any eligibility requirements) of the ceding carrier from which the health benefit plans will be ceded; (3-31-22)

b. Describe whether the assuming carrier will maintain the assumed health benefit plans as a separate class of business (pursuant to Subsection 028.08 or will incorporate them into an existing class of business (pursuant to Subsection 028.09). If the assumed health benefit plans will be incorporated into an existing class of business, the filing will describe the class of business of the assuming carrier into which the health benefit plans will be incorporated; (3-31-22)

c. Describe whether the health benefit plans being assumed are currently available for purchase by small employers; (3-31-22)

d. Describe the potential effect of the assumption, if any, on the benefits provided by the health benefit plans to be assumed; (3-31-22)

e. Describe the potential effect of the assumption, if any on the premiums for the health benefit plans to be assumed; (3-31-22)

f. Describe any other potential material effects of the assumption on the coverage provided to the small employers covered by the health benefit plans to be assumed; and (3-31-22)

g. Include any other information prescribed by the Director. (3-31-22)

04. Informational Filings in Other States. A small employer carrier prescribed to make a filing under Subsection 028.02 will also make an informational filing with the Insurance Supervisory Official of each state in which there are small employer health benefit plans that would be included in the transaction. The informational filing to each state will be made concurrently with the filing made under Subsection 028.02 and will include at least the information specified in Subsection 028.03 for the small employer health benefit plans in that state. (3-31-22)

05. Other Considerations in the Transfer and Assumption of the Entire Insurance Obligation. A small employer carrier will not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering a small employer in this state unless it complies with the following provisions: (3-31-22)

a. The carrier has provided notice to the Director at least sixty (60) days prior to the date of the proposed assumption. The notice contains the information specified in Subsection 028.03 for the health benefit plans covering small employers in this state. (3-31-22)

b. If the assumption of a class of business would result in the assuming small employer carrier being out of compliance with the limitations related to premium rates contained in Section 41-4706(1)(a), Idaho Code, the assuming carrier makes a filing with the Director pursuant to Section 41-4706(3), Idaho Code, seeking suspension of the application of Section 41-4706(1)(a), Idaho Code. (3-31-22)

c. An assuming carrier seeking suspension of the application of Section 41-4706(1)(a), Idaho Code, will not complete the assumption of health benefit plans covering small employers in this state unless the Director grants the suspension requested pursuant to Paragraph 028.05.b. (3-31-22)

d. Unless a different period is approved by the Director, a suspension of the application of Section 41-4706(1)(a), Idaho Code, with respect to an assumed class of business, is for no more than fifteen (15) months and,

with respect to each individual small employer, lasts only until the anniversary date of such employer's coverage (except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to twelve (12) months if the anniversary date occurs within three (3) months of the date of assumption of the class of business). (3-31-22)

06. Exceptions to Ceding or Assumption of Business. Except as provided in Subsection 028.02, a small employer carrier will not cede or assume the entire insurance obligation and/or risk for a small employer health benefit plan unless the transaction includes the ceding to the assuming carrier of the entire class of business within Idaho which includes such health benefit plan. (3-31-22)

07. Requirements for Ceding Less Than an Entire Class of Business. A small employer carrier may cede less than an entire class of business to an assuming carrier if: (3-31-22)

a. One (1) or more small employers in the class have exercised their right under contract to reject, either directly or by implication, the ceding of their health benefit plans to another carrier. In that instance, the transaction includes each health benefit plan in the class of business except those health benefit plans for which a small employer has rejected the proposed cession; or (3-31-22)

b. After a written request from the transferring carrier, the Director determines that the transfer of less than the entire class of business is in the best interests of the small employers insured in that class of business. (3-31-22)

08. Separate Class of Business. Except as provided in Subsection 028.09, a small employer carrier that assumes one (1) or more health benefit plans from another carrier will maintain such health benefit plans as a separate class of business. (3-31-22)

09. Provisions for Exceeding the Maximum Number of Classes of Business. A small employer carrier that assumes one or more health benefit plans from another carrier may exceed the limitation contained in Section 41-4705(2), Idaho Code, (relating to the maximum number of classes of business a carrier may establish) due solely to such assumption for a period of up to fifteen (15) months after the date of the assumption, provided that the carrier complies with the following provisions: (3-31-22)

a. Upon assumption of the health benefit plans, such health benefit plans are maintained as a separate class of business. During the fifteen-month (15) period following the assumption, each of the assumed small employer health benefit plans are transferred by the assuming small employer carrier into a single class of business operated by the assuming small employer carrier. The assuming small employer carrier selects the class of business into which the assumed health benefit plans will be transferred in a manner such that the transfer results in the least possible change to the benefits and rating method of the assumed health benefit plans. (3-31-22)

b. The transfers authorized in Paragraph 028.09.a. occurs with respect to each small employer on the anniversary date of the small employer's coverage, except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to twelve (12) months if the anniversary date occurs within three (3) months of the date of assumption of the class of business. (3-31-22)

c. A small employer carrier making a transfer pursuant to Paragraph 028.09.a. may alter the benefits of the assumed health benefit plans to conform to the benefits currently offered by the carrier in the class of business into which the health benefit plans have been transferred. (3-31-22)

d. The premium rate for an assumed small employer health benefit plan is not modified by the assuming small employer carrier until the health benefit plan is transferred pursuant to Paragraph 028.09.a. Upon transfer, the assuming small employer carrier calculates a new premium rate for the health benefit plan from the rate manual established for the class of business into which the health benefit plan is transferred. In making such calculation, the risk load applied to the health benefit plan is no higher than the risk load applicable to such health benefit plan prior to the assumption. (3-31-22)

e. During the fifteen-month (15) period provided in this Subsection, the transfer of small employer health benefit plans from the assumed class of business in accordance with this subsection is considered a violation of

Section 41-4706(2), Idaho Code. (3-31-22)

10. Restrictions to Apply Eligibility Requirements by Assuming Carrier. An assuming carrier will not apply eligibility requirements, including minimum participation and contribution requirements, with respect to an assumed health benefit plan (or with respect to any health benefit plan subsequently offered to a small employer covered by such an assumed health benefit plan) that are more stringent than the requirements applicable to such health benefit plan prior to the assumption. (3-31-22)

11. Request for Extension of the Transition Period. The Director may approve a longer period of transition upon application of a small employer carrier. The application is made within sixty (60) days from assumption of the class of business and clearly states the justification for a longer transition period. (3-31-22)

12. Additional Information. Nothing in this Section or in the Act is intended to: (3-31-22)

a. Reduce or diminish any legal or contractual obligation or requirement, including any obligation provided in Section 41-511, Idaho Code, of the ceding or assuming carrier related to the transaction; (3-31-22)

b. Authorize a carrier not admitted to transact the business of insurance in this state to offer or insure health benefit plans in this state; or (3-31-22)

c. Reduce or diminish the protections related to an assumption reinsurance transaction provided in Section 41-511, Idaho Code, or otherwise provided by law. (3-31-22)

029. -- 035. (RESERVED)

036. RESTRICTIONS RELATING TO PREMIUM RATES.
The following provisions are applicable for all small employer health benefit plans. (3-31-22)

01. Separate Rate Manual for Each Class of Business. A small employer carrier develops a separate rate manual for each class of business. Base premium rates and new business premium rates charged to small employers by the small employer carrier are computed solely from the applicable rate manual developed pursuant to this Section. To the extent that a portion of the premium rates charged by a small employer carrier is based on the carrier's discretion, the manual specifies the criteria and factors considered by the carrier in exercising such discretion. (3-31-22)

02. Requirements for Adjustments to Rating Method. A small employer carrier will not modify the rating method used in the rate manual for a class of business until the change has been approved as provided in this Section. The Director may approve a change to a rating method if the Director finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this chapter. (3-31-22)

~~**03. Information for Review of Modification of Rating Method.** A carrier may modify the rating method for a class of business only with prior approval of the Director. A carrier requesting to change the rating method for a class of business makes a filing with the Director at least thirty (30) days prior to the proposed date of the change. The filing contains at least the following information: (3-31-22)~~

~~**a.** The reasons the change in rating method is being requested; (3-31-22)~~

~~**b.** A complete description of each of the proposed modifications to the rating method; (3-31-22)~~

~~**c.** A description of how the change in rating method would affect the premium rates currently charged to small employers in the class of business, including an estimate from a qualified actuary of the number of groups or individuals (and a description of the types of groups or individuals) whose premium rates may change by more than ten percent (10%) due to the proposed change in rating method (not generally including increases in premium rates applicable to all small employers in a health benefit plan); (3-31-22)~~

~~**d.** A certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and (3-31-22)~~

~~e. A certification from a qualified actuary that the proposed change in rating method would not produce premium rates for small employers that would be in violation of Section 41-4706, Idaho Code. (3-31-22)~~

043. Change in Rating Method. For the purpose of this Section, a change in rating method means: (3-31-22)

a. A change in the number of case characteristics used by a small employer carrier to determine premium rates for health benefit plans in a class of business (a small employer will not use case characteristics other than age, individual tobacco use, geography or gender without prior approval of the Director); (3-31-22)

b. A change in the manner or procedures by which insureds are assigned into categories for the purpose of applying a case characteristic to determine premium rates for health benefit plans in a class of business; (3-31-22)

c. A change in the method of allocating expenses among health benefit plans in a class of business; or (3-31-22)

d. A change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any small employer that exceeds ten percent (10%). (3-31-22)

e. For the purpose of this Subsection, a change in a rating factor means the cumulative change with respect to such factor considered over a twelve (12) month period. If a small employer carrier changes rating factors with respect to more than one case characteristic in a twelve (12) month period, the carrier considers the cumulative effect of all such changes in applying the ten percent (10%) test. (3-31-22)

~~05. Rate Manual to Specify Case Characteristics and Rate Factors to Be Applied. The rate manual developed pursuant to Subsection 036.01 specifies the case characteristics and rate factors to be applied by the small employer carrier in establishing premium rates for the class of business. (3-31-22)~~

~~06. Uniform Application of Case Characteristics. A small employer carrier uses the same case characteristics as defined in Section 41-4706(1)(h), Idaho Code, in establishing premium rates for each health benefit plan in a class of business and applies them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics are applied without regard to the risk characteristics of a small employer. (3-31-22)~~

~~07. Base Premium Rates and Any Difference in New Business Rate. The rate manual developed pursuant to Subsection 036.01 clearly illustrates the relationship among the base premium rates charged for each health benefit plan in the class of business. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual illustrates the difference. (3-31-22)~~

~~08. Reasonable and Objective Rate Differences. Differences among base premium rates for health benefit plans are based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and will not be based in any way on the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan. A small employer carrier applies case characteristics and rate factors within a class of business in a manner that assures that premium differences among health benefit plans for identical small employer groups vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan. (3-31-22)~~

~~09. Two Step Process. The rate manual developed pursuant to Subsection 036.01 provides for premium rates to be developed in a two step process. In the first step, a base premium rate is developed for the small employer group without regard to any risk characteristics of the group. In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Section 41-4706, Idaho Code, to reflect the risk characteristics of the group. (3-31-22)~~

~~1004. Exception to Application Fee, Underwriter Fee, or Other Fees. Except as provided in~~

~~Subsection 036.11, a premium charged to a small employer for a health benefit plan. A carrier will not include charge a small employer or employee a separate application fee, underwriting fee, or any other separate fee or charge beyond the premium for the health benefit plan. (3-31-22)()~~

~~**11. Uniform Application of Fees.** A carrier may charge a separate fee with respect to a health benefit plan provided the fee is applied in a uniform manner to every health benefit plan in a class of business. All such fees are premium and are included in determining compliance with the Act and this chapter. (3-31-22)~~

~~**12. Uniform Allocation of Administration Expenses.** The rate manual developed pursuant to Subsection 036.01 describes the method of allocating administrative expenses to the health benefit plans in the class of business for which the manual was developed. (3-31-22)~~

~~**13.05. Rate Manual to be Maintained for a Period of Six Years.** Each rate manual developed pursuant to Subsection 036.01 is maintained by the carrier for a period of six (6) years. Updates and changes to the manual are maintained with the manual. (3-31-22)~~

~~**14. Guidelines Issued by Director.** The rate manual and rating practices of a small employer carrier will comply with any guidelines issued by the Director. (3-31-22)~~

~~**15. Application of Restrictions Related to Changes in Premium Rates.** The restrictions related to changes in premium rates are set forth in Section 41-4706(1)(c), Idaho Code, and are applied as follows: (3-31-22)~~

~~**a.** A small employer carrier revises its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates. (3-31-22)~~

~~**b.** If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate is the change in the base premium rate for the purposes of Sections 41-4706(1)(c)(i), Idaho Code. (3-31-22)~~

~~**c.** If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan is considered a health benefit plan into which the small employer carrier is no longer enrolling new small employers for the purposes of Section 41-4706(1)(c)(i), Idaho Code. (3-31-22)~~

~~**d.** If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan in the same class of business by more than twenty percent (20%), the carrier makes a filing with the Director containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing is made within thirty (30) days of the beginning of the rating period. (3-31-22)~~

~~**e.** A small employer carrier keeps on file for a period of at least six (6) years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period. (3-31-22)~~

~~**16. Change in Premium Rate.** Except as provided in Subsection 036.17, a change in premium rate for a small employer produces a revised premium rate that is no more than the following: (3-31-22)~~

~~**a.** The base premium rate for the small employer, given its present composition, (as shown in the rate manual as revised for the rating period), multiplied by; (3-31-22)~~

~~**b.** One (1) plus the sum of: (3-31-22)~~

~~**i.** The risk load applicable to the small employer during the previous rating period; and (3-31-22)~~

~~**ii.** Fifteen percent (15%) (prorated for periods of less than one (1) year). (3-31-22)~~

~~17. Plans No Longer Enrolling New Business.~~ In the case of a health benefit plan into which a small employer carrier is no longer enrolling new small employers, a change in premium rate for a small employer will produce a revised premium rate that is no more than the base premium rate for the small employer (given its present composition and as shown in the rate manual in effect for the small employer at the beginning of the previous rating period), multiplied by Paragraphs ~~036.17.a. and 036.17.b.~~ (3-31-22)

- ~~a. One (1) plus the lesser of: (3-31-22)~~
 - ~~i. The change in the base rate; or (3-31-22)~~
 - ~~ii. The percentage change in the new business premium for the most similar health benefit plan into which the small employer carrier is enrolling new small employers. (3-31-22)~~
- ~~b. One (1) plus the sum of: (3-31-22)~~
 - ~~i. The risk load applicable to the small employer during the previous rating period; and (3-31-22)~~
 - ~~ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (3-31-22)~~

~~18. Limitations on Revised Premium Rate.~~ Notwithstanding the provisions of Subsections ~~036.16 and 036.17,~~ a change in premium rate for a small employer will not produce a revised premium rate that would exceed the limitations on rates provided in Section ~~41-4706(1)(b), Idaho Code.~~ (3-31-22)

~~1906. Waiver Request for a Taft-Hartley Trust.~~ A representative of a Taft-Hartley trust (including a carrier upon the written request of such a trust) may file a written request with the Director for the waiver of application of the provisions of Section ~~41-4706(1), Idaho Code,~~ with respect to such trust. (3-31-22)

~~207. Provisions for Which Trust Is Seeking Waiver.~~ A request made under Subsection ~~036.1916~~ identifies the provisions for which the trust is seeking the waiver and describes, with respect to each provision, the extent to which application of such provision would: (3-31-22)()

- ~~a. Adversely affect the participants and beneficiaries of the trust; and (3-31-22)~~
- ~~b. Require modifications to one (1) or more of the collective bargaining agreements under or pursuant to which the trust was or is established or maintained. (3-31-22)~~

~~2108. Waiver Not for an Individual or Associate Member.~~ A waiver granted under this provision will not apply to an individual who participates in the trust because the individual is an associate member of an employee organization or the beneficiary of such an individual. (3-31-22)

037. -- 045. (RESERVED)

046. REQUIREMENT TO INSURE ENTIRE GROUPS.

01. Offer of Coverage. A small employer carrier that offers coverage to a small employer will offer to provide coverage to each eligible employee and to each dependent of an eligible employee. Except as provided in Subsection 046.02, the small employer carrier provides the same health benefit plan to each such employee and dependent. (3-31-22)

02. Choice of Health Benefit Plans. A small employer carrier may offer the employees of a small employer the option of choosing among one (1) or more health benefit plans, provided that each eligible employee may choose any of the offered plans. The choice among benefit plans will not be limited, restricted or conditioned based upon the risk characteristics of the eligible employees or their dependents. (3-31-22)

03. Participation Requirement. The small employer carrier may impose reasonable minimum participation requirements for issuance of coverage to small employers, subject to prior approval from the Director. (3-31-22)

04. Employer Census and Supporting Documentation. A small employer carrier ~~will~~ may require each small employer that applies for coverage, as part of the application process, to prepare or provide an employer census of dependents and eligible employees as defined in Sections 41-4703(11) and 41-4703(13), Idaho Code. The small employer carrier may require the small employer to provide appropriate supporting documentation (such as the W-2 Summary Wage and Tax Form) or a certification of information by a Small Employer as to the current census information. (3-31-22)()

05. Waiver for Documentation of Coverage. A small employer carrier will secure a waiver with respect to each eligible employee and each dependent of such an eligible employee who declines an offer of coverage under a health benefit plan provided to a small employer. The waiver is signed by the eligible employee (on behalf of such employee or the dependent of such employee) and certifies that the individual who declined coverage was informed of the availability of coverage under the health benefit plan. The waiver form requires that the reason for declining coverage be stated on the form, and includes a statement informing the eligible employee of the special enrollment rights provided within the Section 41-4703(17)(d) and (e), Idaho Code, and includes a written warning of the penalties imposed on late enrollees. Waivers are maintained by the small employer carrier for a period of six (6) years. (3-31-22)

06. Refusal to Provide Information. A small employer carrier ~~will not issue~~ may deny coverage to a small employer that refuses to provide the list prescribed under Subsection 046.04 or a waiver prescribed under Subsection 046.05, except if the excluded individual has coverage under a health benefit plan or ~~other similar~~ health benefit arrangement that provides benefits similar to or exceeding benefits provided under the basic health benefit plan. (3-31-22)()

07. Induced Declinations. A small employer carrier will not issue coverage to a small employer if the carrier, or an agent for such carrier, has reason to believe that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to a health status related factor of the individual. (3-31-22)

08. Agent Notification to Small Employer Carrier. An agent will notify a small employer carrier, prior to submitting an application for coverage with the carrier on behalf of a small employer, of any circumstances that would indicate that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to the individual's risk characteristics. (3-31-22)

09. New Entrants. New entrants to a small employer group are offered an opportunity to enroll in the health benefit plan currently held by such group based upon the provisions of Section 41-4708, Idaho Code. A new entrant that does not exercise the opportunity to enroll in the health benefit plan within the period provided by the small employer carrier may be treated as a late enrollee by the carrier, provided that the period provided to enroll in the health benefit plan extends at least thirty (30) days after the date the new entrant is notified of their opportunity to enroll. The period of continuous coverage will not include any waiting period for the effective date of the new coverage applied by the employer to all new enrollees under the Employee Benefit Plan. If a small employer carrier has offered more than one health benefit plan to a small employer group pursuant to Subsection 046.02, the new entrant is offered the same choice of health benefit plans as the other members of the group. (3-31-22)

10. Waiting Period. A small employer carrier will not apply a waiting period, elimination period or other similar limitation of coverage (other than an exclusion for pre-existing medical conditions consistent with Section 41-4708(3), Idaho Code). (3-31-22)

11. Risk Characteristics. New entrants to a group are accepted for coverage by the small employer carrier without any restrictions or limitations on coverage related to the risk characteristics of the employees or their dependents, except that a carrier may exclude or limit coverage for pre-existing medical conditions, consistent with the provisions provided in Section 41-4708(3), Idaho Code. (3-31-22)

~~**12. Risk Load.** A small employer carrier may assess a risk load to the premium rate associated with a new entrant, consistent with the requirements of Section 41-4706, Idaho Code. The risk load is the same risk load charged to the small employer group immediately prior to acceptance of the new entrant into the group. (3-31-22)~~

132. Rescission Employer Misstatements. When material application misstatements are found, rescission action by the carrier may be taken at the carrier's option against the coverage of an entire small employer (including employees and dependents) and is limited to circumstances under which the application misstatements have been made by the small employer. When rescission action is taken, per Section 41-4707(1)(b), Idaho Code, premiums are refunded less any claims which had been paid prior to the date the rescission was initiated. At the carrier's option, the carrier may seek to recover any amounts of claims paid in excess of premiums paid. The applicable contract or coverage is considered null and void. (3-31-22)

047. -- 054. (RESERVED)

055. APPLICATION TO REENTER STATE.

Restrictions on offering small group health insurance. A carrier that has been banned from writing coverage for small employers in this state pursuant to Section 41-4707(2), Idaho Code, will not resume offering health benefit plans to small employers in this state until the carrier has made a petition to the Director to be reinstated as a small employer carrier and the petition has been approved by the Director. In reviewing a petition, the Director may ask for such information and assurances as the Director finds reasonable and appropriate. (3-31-22)

056. -- 059. (RESERVED)

060. QUALIFYING PREVIOUS AND QUALIFYING EXISTING COVERAGES.

01. Previous Coverage or Existing Coverage. In determining whether a health benefit plan or other health benefit arrangement (whether public or private) is considered qualifying previous coverage or qualifying existing coverage for the purposes of Sections 41-4703(17), 41-4703(23), and 41-4708(3)(c), Idaho Code, a small employer carrier interprets the Act no less favorably to an insured individual than the following: (3-31-22)

a. A health benefit plan, certificate, or other health benefit arrangement is considered employer-based if an employer sponsors the plan or arrangement or makes a contribution to the plan or arrangement. (3-31-22)

02. Source of Previous or Existing Coverage. A small employer carrier will ascertain the source of previous or existing coverage of each eligible employee and each dependent of an eligible employee at the time such employee or dependent initially enrolls into the health benefit plan provided by the small employer carrier. The small employer carrier has the responsibility to contact the source of such previous or existing coverage to resolve any questions about the benefits or limitations related to such previous or existing coverage. (3-31-22)

03. Certification of Creditable Coverage. Small employer carriers will provide written certification of creditable coverage to individuals in accordance with this Subsection. (3-31-22)

a. A small employer carrier satisfies the certification requirements if another person provides the certificate, but only to the extent that information relating to the individual's creditable coverage and waiting or affiliation period has been provided by another person. (3-31-22)

b. To the extent coverage under a health benefit plan consists of group coverage, the plan satisfies the certification requirements if the small employer carrier offering the coverage is prescribed to provide the certificates of creditable coverage to individuals pursuant to an agreement between the plan and the carrier. (3-31-22)

c. A small employer carrier is not obligated to provide information regarding health benefit plan coverage provided to an individual by another person. (3-31-22)

i. If an individual's coverage under a policy ceases before the individual's coverage under the group health plan ceases, the entity that issued the policy provides sufficient information to the small employer carrier, or to another person designated by the carrier, to enable the carrier, or other person, to provide a certificate that reflects the period of coverage under the policy, after the individual's coverage under the group health plan ceases. (3-31-22)

ii. The provision of the information pursuant to Subparagraph 060.03.c.i. to the new carrier satisfies the entity's obligation to provide an automatic certificate. (3-31-22)

iii. The carrier providing the information about creditable coverage cooperates with other carriers in responding to any request for additional information. (3-31-22)

iv. If the individual's coverage under a group health plan ceases, the carrier that issued the group policy provides an automatic certificate of coverage. (3-31-22)

d. A small employer carrier provides a certification of creditable coverage, without charge, to participants or dependents who are or were covered under the group health benefit plan. (3-31-22)

e. A small employer carrier provides a certificate ~~at the time a~~ upon request ~~is made~~ on behalf of an individual or automatically if ~~the such~~ request is not made ~~not later than twenty four (24) months after~~ within thirty (30) days of the date the individual's coverage ceased under the plan. (3-31-22)()

i. Each small employer carrier establishes a procedure for individuals to request and receive certificates. Upon a receipt of the request, the small employer carrier provides the certificate by the earliest date that the carrier, acting in a reasonable and prompt fashion, can provide the certificate. (3-31-22)

f. The certificate provided includes: (3-31-22)

i. The date the certificate was issued; (3-31-22)

ii. The name of the group health plan that provided the coverage described in the certificate; (3-31-22)

iii. The name of the participant or dependent with respect to whom the certificate applies, and any other information necessary for the plan providing the coverage specified in the certificate to identify the individual, such as the individual's identification number under the plan; (3-31-22)

iv. The name, address, and telephone number of the plan administrator prescribed to provide the certificate; (3-31-22)

v. The telephone number to call for further information regarding the certificate; (3-31-22)

vi. Either a statement that the individual has at least twelve (12) months of creditable coverage, disregarding days of creditable coverage before a significant break in coverage; or the date any waiting period or affiliation period, if applicable, began and the date creditable coverage began; and (3-31-22)

vii. The date creditable coverage ended, unless the certificate indicates that the creditable coverage is continuing as of the date of the certificate. (3-31-22)

g. Small employer carriers may provide a certificate by first-class mail, at the participant's last known address. (3-31-22)

~~h. The model for the certification of coverage may be found on the Department of Insurance Internet website.~~ (3-31-22)

061. -- 066. (RESERVED)

067. RESTRICTIVE RIDERS.

Except as permitted in Section 41-4708(3), Idaho Code, a small employer carrier will not modify or restrict any health benefit plan with respect to any eligible employee or dependent of an eligible employee, through riders, endorsements or otherwise, for the purpose of restricting or excluding the coverage or benefits provided to such employee or dependent for specific diseases, medical conditions, including but not limited to pregnancy, or services otherwise covered by the plan. (3-31-22)

068. -- 074. (RESERVED)

075. RULES RELATED TO FAIR MARKETING.

01. Small Employer Carrier to Actively Market. A small employer carrier actively markets each of its health benefit plans to small employers in this state. (3-31-22)

~~**02. Marketing Mandated Plans.** In marketing the mandated health benefit plans to small employers, a small employer carrier uses at least the same sources and methods of distribution that it uses to market other health benefit plans to small employers. Any producer authorized by a small employer carrier to market health benefit plans to small employers in the state is also authorized to market the mandated health benefit plans. (3-31-22)~~

03. Offer in Writing. A small employer carrier offers all small group health benefit plans to any small employer that applies for or makes an inquiry regarding health insurance coverage from the small employer carrier. The offer may be provided directly to the small employer or delivered through a producer. The offer is in writing and includes at least the following information: (3-31-22)

a. A general description of the benefits and base rates contained in all actively marketed, ~~including but not limited to the mandated, health benefit plans;~~ and (3-31-22) ()

b. Information describing how the small employer may enroll in the plans. (3-31-22)

04. Timeliness of Price Quote. A small employer carrier provides a price quote to a small employer (directly or through an authorized producer) within ten (10) working days of receiving a request for a quote and such information as is necessary to provide the quote. A small employer carrier notifies a small employer (directly or through an authorized producer) within five (5) working days of receiving a request for a price quote of any additional information needed by the small employer carrier to provide the quote. (3-31-22)

~~**05. Toll-Free Telephone Service.** A small employer carrier establishes and maintains a toll-free telephone service to provide information to small employers regarding the availability of small employer health benefit plans in this state. The service provides information to callers on how to apply for coverage from the carrier. The information may include the names and phone numbers of producers located geographically proximate to the caller or such other information reasonably designed to assist the caller to locate an authorized producer or to apply for coverage. (3-31-22)~~

06. Restrictions as to Contribution to Association. The small group carrier will not require a small employer to join or contribute to any association or group as a condition of being accepted for coverage by the small employer carrier, except that, if membership in an association or other group is a requirement for accepting a small employer into a particular health benefit plan, a small employer carrier may apply such requirement, subject to the requirements of Section 41-4708, Idaho Code. (3-31-22)

07. No Requirement to Qualify for Other Insurance Product. A small employer carrier will not require, as a condition to the offer of sale of a health benefit plan to a small employer, that the small employer purchase or qualify for any other insurance product or service. (3-31-22)

~~**08. Plans Subject to Requirements.** Carriers offering group health benefit plans in this state are responsible for determining whether the plans are subject to the requirements of the Act and this chapter. (3-31-22)~~

~~**09. Annual Filing Requirement.** A small employer carrier files annually the following information with the Director related to health benefit plans issued by the small employer carrier to small employers in this state on forms prescribed by the Director: (3-31-22)~~

~~a. The number of small employers that were covered under health benefit plans in the previous calendar year (separated as to newly issued plans and renewals); (3-31-22)~~

~~b. The number of small employers that were covered under the each mandated health benefit plan in the previous calendar year (separated as to newly issued plans and renewals). (3-31-22)~~

~~c. The number of small employer health benefit plans in force in each county (or by five (5) digit zip~~

~~code) of the state as of December 31 of the previous calendar year; (3-31-22)~~

~~d. The number of small employer health benefit plans that were voluntarily not renewed by small employers in the previous calendar year; (3-31-22)~~

~~e. The number of small employer health benefit plans that were terminated or non renewed (for reasons other than nonpayment of premium) by the carrier in the previous calendar year; and (3-31-22)~~

~~f. The number of health benefit plans that were issued to residents that were uninsured for at least sixty-three (63) days prior to issue. (3-31-22)~~

~~10. **Total Number of Residents.** All carriers file annually with the Director, on forms prescribed by the Director, the total number of residents, including spouses and dependents, covered during the previous calendar year under all health benefit plans issued in this state. This includes residents covered under reinsurance by way of excess loss or stop loss plans. (3-31-22)~~

~~11. **Filing Date.** The information described in Subsections 075.09 and 075.10 is filed no later than March 15, each year. (3-31-22)~~

~~12. **Specific Data.** For purposes of this section, health benefit plan information includes policies or certificates of insurance for specific disease, hospital confinement indemnity and stop loss coverages. (3-31-22)~~

076. -- 080. (RESERVED)

081. LIMITATIONS AND EXCLUSIONS.

01. Allowances. A health benefit plan will not limit or exclude coverage by type of illness, accident, treatment, or medical condition, except as follows: (3-31-22)

a. Any service not medically necessary or appropriate unless specifically included within the coverage provisions. (3-31-22)

b. Custodial, convalescent or intermediate level care or rest cures. (3-31-22)

c. Services that are experimental or investigational. (3-31-22)

d. Services eligible for coverage by Workers' Compensation, Medicare or CHAMPUS. (3-31-22)

e. Services for which no charges are made or for which no charges would be made in the absence of insurance or for which the insured has no legal obligation to pay. (3-31-22)

f. Services for weight control, nutrition, and smoking cessation, including self-help and training programs as well as prescription drugs, used in conjunction with such programs and services. (3-31-22)

g. Cosmetic surgery and services, except for treatment or surgery for congenital anomaly and mastectomy reconstruction as described in the Women's Health and Cancer Rights Act. (3-31-22)

h. Artificial insemination, infertility treatment, and the treatment of sexual dysfunction not related to organic disease. (3-31-22)

i. Services for reversal of elective, surgically or pharmaceutically induced infertility. (3-31-22)

j. Vision therapy, tests, glasses, contact lenses and other vision aids. Radial keratotomy, myopic keratomileusis and any surgery involving corneal tissue to alter or correct myopia, hyperopia or stigmatic error. Vision tests and glasses will be covered for children under the age of twelve (12), except in catastrophic health benefit plans. (3-31-22)

- k.** For treatment of weak, strained, or flat feet, including orthopedic shoes or other supportive devices, or for cutting, removal, or treatment of corns, calluses, or nails other than corrective surgery, or for metabolic or peripheral vascular disease. (3-31-22)
- l.** One thousand dollars (\$1,000) per year limit, subject to the policy deductible, coinsurance, or copayment, on manipulative therapy and related treatment, including heat treatments and ultrasound, of the musculoskeletal structure for other than fractures and dislocations of the extremities. (3-31-22)
- m.** Dental care or treatment, except for injury sustained while insured under this policy, or as a result of nondental disease covered by the policy. (3-31-22)
- n.** Hearing or speech tests without illness being suspect. (3-31-22)
- o.** Hearing aids, auditory osseointegrated (bone conduction) devices, cochlear implants and examination for or fitting of them; -- except for congenital or acquired hearing loss that without intervention may result in cognitive or speech development deficits of a covered dependent child; -- covering not less than one (1) device every thirty-six (36) months per ear with loss and not less than forty-five (45) language/speech therapy visits during the first twelve (12) months after delivery of the covered device. (3-31-22)()
- p.** Private room accommodation charges in excess of the institution's most common semi-private room charge except when prescribed as medically necessary. (3-31-22)
- q.** Services performed by a member of the insured's family or of the insured's spouse's family. Family includes parents or grandparents of the insured or spouse and any descendants of such parents or grandparents. (3-31-22)
- r.** Care incurred before the effective date of the person's coverage. (3-31-22)
- s.** Immunizations and medical exams and tests of any kind not related to treatment of covered injury or disease, except as specifically stated in the policy. (3-31-22)
- t.** Injury or sickness caused by war or armed international conflict. (3-31-22)
- u.** Sex change operations and treatment in connection with transsexualism. (3-31-22)
- v.** Marriage and family and child counseling except as specifically allowed in the policy. (3-31-22)
- w.** Acupuncture. (3-31-22)
- x.** Private duty nursing except as specifically allowed in the policy. (3-31-22)
- y.** Services received from a medical or dental department maintained by or on behalf of an employer, a mutual benefit association, labor union, trust, or similar person or group. (3-31-22)
- z.** Services incurred after the date of termination of a covered person's coverage except as allowed by any extension of benefits provision of the policy. (3-31-22)
- aa.** Expenses for personal hygiene and convenience items such as air conditioners, humidifiers, and physical fitness equipment. (3-31-22)
- bb.** Charges for failure to keep a scheduled visit, charges for completion of any form, and charges for medical information. (3-31-22)
- cc.** Charges for screening examinations except as otherwise provided in the policy. (3-31-22)
- dd.** Charges for wigs or cranial prostheses, hair analysis, hair loss and baldness. (3-31-22)

Code. ee. Pre-existing conditions, except as provided ~~specifically in the policy~~ by section 41-4708, Idaho
(3-31-22)()

~~i. A health benefit plan will not deny, exclude or limit benefits for a covered individual for covered expenses incurred more than twelve (12) months following the effective date of the individual's coverage due to a pre-existing condition. (3-31-22)~~

~~ii. A health benefit plan waives any time period applicable to a pre-existing condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty three (63) days prior to the effective date of the new coverage. This provision does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan. (3-31-22)~~

~~iii. A health benefit plan may exclude coverage for late enrollees for the greater of twelve (12) months or for a twelve (12) months pre-existing condition exclusion; provided that if both a period of exclusion from coverage and a pre-existing condition exclusion are applicable to a late enrollee, the combined period will not exceed twelve (12) months from the date the individual enrolls for coverage under the health benefit plan. (3-31-22)~~

082. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE
18.04.13 – THE INDIVIDUAL HEALTH INSURANCE AVAILABILITY ACT
DOCKET NO. 18-0413-2501 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-5211, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, August 7, 2025 2:00 p.m. – 4:00 p.m.
In-person participation is available at: Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
Web meeting link: Click here to join the meeting Meeting ID: 237 139 719 159 3 Passcode: jk3o9Ur2 Download Teams Join on the web

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 purpose of this chapter promotes broader spreading of risk in the individual marketplace.

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

No fee or charge imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2025, Idaho Administrative Bulletin, [Volume 25-5, pages 52-53](#) under docket number 18-ZBRR-2501.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

No changes are proposed to the materials incorporated by reference. Pursuant to 67-5202, Idaho Code, and to align with rulemaking standards, the incorporation by reference section will have a reference to find these materials on the Department’s website.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 2nd day of July 2025.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0413-2501
(ZBR Chapter Rewrite.)

18.04.13 – THE INDIVIDUAL HEALTH INSURANCE AVAILABILITY ACT

000. LEGAL AUTHORITY.

~~Title 41, Chapters 2, 52, and 55, Section 41-211, Section 41-5206, and Section 41-5211~~ Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

01. ~~Title.~~ IDAPA 18.04.13, “The Individual Health Insurance Availability Act.” (3-31-22)

02. ~~Scope.~~ ~~The Act and t~~ This chapter ~~are is~~ intended to promote broader spreading of risk in the individual marketplace. ~~The Act Title 41, Chapter 52 and this chapter are intended to~~ regulate all health benefit plans sold to eligible individuals. Carriers that provide health benefit plans to eligible individuals are ~~intended to be~~ subject to ~~all of the provisions of~~ the Act and this chapter. (3-31-22)()

002. INCORPORATION BY REFERENCE.

The Outline of Coverage for Individual Major Medical Expense Coverage is incorporated by reference into this chapter from the April 1999 version of the National Association of Insurance Commissioners Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Act and may be found on the Department website. (3-31-22)()

003. -- 009. (RESERVED)

010. DEFINITIONS.

~~As used in this chapter:~~ (3-31-22)

01. Geographic Area. Geographic areas are limited to six (6) designated areas, with no area being smaller than a county. (3-31-22)

02. Risk Characteristic. Risk Characteristic means the health status, claims experience, duration of

coverage, or any similar characteristic related to the health status or claims experience of an individual. Such characteristics can include family composition. (3-31-22)

03. Risk Load. Risk Load means the percentage above the applicable base premium rate that is charged by an individual carrier to the rates of the eligible individual, to reflect the risk characteristics of the eligible individual. (3-31-22)

04. Idaho Resident. Idaho resident means a person who is able to provide satisfactory proof of having resided in Idaho, as their place of domicile for a continuous six (6) month period, for purposes of being an eligible individual pursuant to Section 41-5203(10), Idaho Code. The six (6) month residency requirements would be waived for eligible individuals based on the Health Insurance Portability and Accountability Act of 1996. (3-31-22)

011. POLICY DEFINITIONS.

An insurance policy subject to this chapter will not apply definitions more restrictive than the following: (3-31-22)

01. Accident. “Accident,” “accidental injury,” and “accidental” is to employ “result” language and does not include words that establish an accidental means test or use words such as “external, violent, visible wounds” or similar words of description or characterization. (3-31-22)

a. “Injury” or “injuries” means accidental bodily injury ~~sustained by the insured person that is the direct cause of the condition for which benefits are provided~~, independent of disease or bodily infirmity or any other cause, and that occurs while the insurance is in force. (3-31-22)()

b. It may exclude injuries for which benefits are provided: ~~under workers' compensation, employers' liability, or similar law; or under a motor vehicle no-fault plan, unless the motor vehicle no-fault plan provides for coordination of benefits; or for injuries occurring while the insured person is engaged in any activity pertaining to a trade, business, employment or occupation for wage or profit.~~ (3-31-22)()

~~i. Under workers' compensation, employers' liability, or similar law; or (3-31-22)~~

~~ii. Under a motor vehicle no-fault plan, unless the motor vehicle no-fault plan provides for coordination of benefits; or (3-31-22)~~

~~iii. For injuries occurring while the insured person is engaged in any activity pertaining to a trade, business, employment or occupation for wage or profit. (3-31-22)~~

02. Convalescent Nursing Home. Includes “extended care facility,” or “skilled nursing facility.” Is to be defined in relation to its status, facility and available services. (3-31-22)

a. Such home or facility is to: (3-31-22)

i. Be operated pursuant to law; (3-31-22)

ii. Be approved for payment of Medicare benefits or be qualified to receive approval for payment of Medicare benefits, if so requested; (3-31-22)

iii. Be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician; (3-31-22)

iv. Provide continuous twenty-four (24) hours per day nursing service by or under the supervision of a registered nurse; and (3-31-22)

v. Maintain a daily medical record of each patient. (3-31-22)

b. Such home or facility definition may exclude: (3-31-22)

i. A home, facility or part of a home or facility used primarily for rest; (3-31-22)

- ii. A home or facility for the aged or for the care of drug addicts or alcoholics; or (3-31-22)
- iii. A home or facility primarily used for the care and treatment of mental or nervous disorders, or for custodial or educational care. (3-31-22)

03. Home Health Care Agency. An agency approved under Medicare, or that is licensed to provide home health care under applicable state law. (3-31-22)

04. Hospice. A facility licensed, certified or registered in accordance with state law that provides a formal program of care that is: (3-31-22)

- a. For terminally ill patients whose life expectancy is less than six (6) months; (3-31-22)
- b. Provided on an inpatient or outpatient basis; and (3-31-22)
- c. Directed by a physician. (3-31-22)

05. Hospital. Is defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Healthcare Organizations, Accreditation of Rehabilitation Facilities or by Medicare. (3-31-22)

- a. The term “hospital” may: (3-31-22)
 - i. Be an institution licensed to operate as a hospital pursuant to law; (3-31-22)
 - ii. Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which a charge is made; and (3-31-22)
 - iii. Provide twenty-four (24) hour nursing service by or under the supervision of registered nurses. (3-31-22)
- b. The term “hospital” may exclude, unless the facility otherwise meets the requirements: (3-31-22)
 - i. Convalescent homes or, convalescent, rest, or nursing facilities; (3-31-22)
 - ii. Facilities affording primarily the care and treatment of mental or nervous disorders, or for custodial educational, or rehabilitative care; (3-31-22)
 - iii. Facilities for the aged, drug addicts, or alcoholics; or (3-31-22)
 - iv. A military or veterans' hospital, a soldiers' home or a hospital contracted for or operated by any national government or government agency for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability for the patient exists for charges made to the individual for the services. (3-31-22)

06. Mental or Nervous Disorders. Neurosis, psychoneurosis, psychosis, or mental or emotional disease or disorder of any kind. (3-31-22)

~~**07. Pre-existing Condition.** (3-31-22)~~

~~a. A condition or disease that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage; (3-31-22)~~

~~b. A condition or disease for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or (3-31-22)~~

~~c. A pregnancy existing on the effective date of coverage. (3-31-22)~~

~~087. **Sickness or Illness.** A sickness or disease of an insured person that first manifests itself after the effective date of insurance and while the insurance is in force. It may be further modified to exclude sickness or disease for which benefits are provided under a worker's compensation, occupational disease, employers' liability or similar law. A sickness or disease of an insured person that presents itself after the effective date of insurance and while the insurance is in force. It may exclude sickness or disease for which benefits are provided under a worker's compensation, occupational disease, employers' liability or similar law. (3-31-22)(____)~~

~~09. **Total Disability.** An individual not engaged in any employment or occupation for which the individual is or becomes qualified by reason of education, training or experience, and is not in fact engaged in any employment or occupation for wage or profit. (3-31-22)~~

~~a. It may be defined in relation to the inability of the person to perform duties but will not be based solely upon an individual's inability to: (3-31-22)~~

~~i. Perform "any occupation whatsoever," "any occupational duty," or "any and every duty of his occupation"; or (3-31-22)~~

~~ii. Engage in a training or rehabilitation program. (3-31-22)~~

~~b. An insurer may require the complete inability of the person to perform all of the substantial and material duties of his or her regular occupation or words of similar import. An insurer may require care by a provider other than the insured or a member of the insured's immediate family. (3-31-22)~~

012. ASSESSMENTS.

The Board, prior to March 1st of each year, determines and files with the Director an estimate of the assessments needed to fund the losses incurred by the Idaho ~~Small Employer and~~ Individual ~~Health~~ High Risk Reinsurance Program. ~~The March 1, 2001 assessment anticipated by Section 41-4711, Idaho Code, will consist of the amounts needed to cover the claims cost of the individual policies issued on or before June 30, 2000. This interim assessment is based on the assessment formula set forth in Section 41-4711(12)(c), Idaho Code. Initial or interim assessments paid, on behalf of the Idaho Individual High Risk Reinsurance Pool, will be credited to each carrier's account when the amounts needed to fund losses and pay program expenses are known. (3-31-22)(____)~~

013. -- 027. (RESERVED)

028. TRANSITION FOR ASSUMPTIONS OF BUSINESS FROM ANOTHER CARRIER.

01. Conditions for Transfer or Assumption of Entire Insurance Obligation. An individual carrier will not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering an individual in this state unless: (3-31-22)

a. The transaction received any necessary approval of the insurance supervisory official of the state of domicile of the assuming carrier; (3-31-22)

b. The transaction received any necessary approval of the insurance supervisory official of the state of domicile of the ceding carrier; and, (3-31-22)

c. The transaction meets the other requirements of this Section. (3-31-22)

02. Time Frame for Filing Plan to Assume or Cede Entire Insurance Obligation. A carrier domiciled in this state that proposes to assume or cede the entire insurance obligation and/or risk of one or more individual health benefit plans from another carrier makes a filing for approval with the Director at least sixty (60) days prior to the date of the proposed assumption. The Director may approve the transaction if the Director finds that

the transaction is in the best interests of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of the Act and this chapter. The Director will not approve the transaction until at least thirty (30) days after the date of the filing; except that, if the ceding carrier is in hazardous financial condition, the Director may approve the transaction as soon as the Director deems reasonable. (3-31-22)

03. Filing Requirements. The filing for Subsection 028.02 will: (3-31-22)

a. Describe the health benefit plan (including any eligibility requirements) of the ceding carrier from which the health benefit plans will be ceded; (3-31-22)

b. Describe whether the assuming carrier will maintain the assumed health benefit plans (pursuant to Subsection 028.08) or will incorporate them into existing business (pursuant to Subsection 028.09). If the assumed health benefit plans will be incorporated into existing business, the filing will describe the business of the assuming carrier into which the health benefit plans will be incorporated; (3-31-22)

c. Describe whether the health benefit plans being assumed are currently available for purchase by eligible individuals; (3-31-22)

d. Describe the potential effect of the assumption, if any, on the benefits provided by the health benefit plans to be assumed; (3-31-22)

e. Describe the potential effect of the assumption, if any, on the premiums for the health benefit plans to be assumed; (3-31-22)

f. Describe any other potential material effects of the assumption on the coverage provided to the eligible individuals covered by the health benefit plans to be assumed; and (3-31-22)

g. Include any other information prescribed by the Director. (3-31-22)

04. Informational Filings in Other States. An individual carrier prescribed to make a filing under Subsection 028.02 will also make an informational filing with the Insurance Supervisory Official of each state in which there are individual health benefit plans that would be included in the transaction. The informational filing to each state will be made concurrently with the filing made under Subsection 028.02 and will include at least the information specified in Subsection 028.03 for the individual health benefit plans in that state. (3-31-22)

05. Considerations in the Transfer and Assumption of the Entire Insurance Obligation. An individual carrier will not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering an eligible individual in this state unless it complies with the following provisions: (3-31-22)

a. The carrier has provided notice to the Director at least sixty (60) days prior to the date of the proposed assumption. The notice contains the information specified in Subsection 028.03 for the health benefit plans covering eligible individuals in this state. (3-31-22)

b. If the assumption of a health benefit plan would result in the assuming individual carrier being out of compliance with the limitations related to premium rates contained in Section 41-5206(1)(a), Idaho Code, the assuming carrier makes a filing with the Director pursuant to Section 41-5206(2), Idaho Code, seeking suspension of the application of Section 41-5206(1)(a), Idaho Code. (3-31-22)

c. An assuming carrier seeking suspension of the application of Section 41-5206(1)(a), Idaho Code, will not complete the assumption of health benefit plans covering eligible individuals in this state unless the Director grants the suspension requested pursuant to Paragraph 028.05.b. (3-31-22)

d. Unless a different period is approved by the Director, a suspension of the application of Section 41-5206(1)(a), Idaho Code, with respect to assumed one (1) or more health benefit plans, is for no more than fifteen (15) months and, with respect to each individual, lasts only until the anniversary date of such individual's coverage (except that the period with respect to an individual may be extended beyond such individual first anniversary date for a period of up to twelve (12) months if the anniversary date occurs within three (3) months of the date of

assumption of the health benefit plan). (3-31-22)

06. Exceptions to Ceding or Assumption of Business. Except as provided in Subsection 028.02, an individual carrier will not cede or assume the entire insurance obligation or risk for an individual health benefit plan unless the transaction includes the ceding to the assuming carrier of all business within Idaho which includes such health benefit plan. (3-31-22)

07. Requirements for Ceding Less Than Entire Business. An Individual carrier may cede less than an entire health benefit plan to an assuming carrier if: (3-31-22)

a. One (1) or more eligible individuals in the health benefit plan have exercised their right under contract to reject, either directly or by implication, the ceding of their health benefit plans to another carrier. In that instance, the transaction includes each health benefit plan with the exception of those health benefit plans for which an eligible individual has rejected the proposed cession; or (3-31-22)

b. After a written request from the transferring carrier, the Director determines that the transfer of less than all health benefit plans is in the best interests of the eligible individuals insured. (3-31-22)

08. Separate Health Benefit Plans. Except as provided in Subsection 028.09, an individual carrier that assumes one (1) or more health benefit plans from another carrier may maintain such health benefit plans as a separate health benefit plan. (3-31-22)

09. Restrictions to Apply Eligibility Requirements by Assuming Carrier. An assuming carrier will not apply eligibility requirements, with respect to an assumed health benefit plan (or with respect to any health benefit plan subsequently offered to an eligible individual covered by such an assumed health benefit plan) that are more stringent than the requirements applicable to such health benefit plan prior to the assumption. (3-31-22)

10. Request for Extension of the Transition Period. The Director may approve a longer period of transition upon application of an individual carrier. The application is made within sixty (60) days from assumption of the health benefit plan and clearly states the justification for a longer transition period. (3-31-22)

11. Additional Information. Nothing in this Section or in the Act is intended to: (3-31-22)

a. Reduce or diminish any legal or contractual obligation or requirement, including any obligation provided in Section 41-511, Idaho Code, of the ceding or assuming carrier related to the transaction; (3-31-22)

b. Authorize a carrier not admitted to transact the business of insurance in this state to offer or insure health benefit plans in this state; or (3-31-22)

c. Reduce or diminish the protections related to an assumption reinsurance transaction provided in Section 41-511, Idaho Code, or provided by law. (3-31-22)

029. -- 035. (RESERVED)

036. RESTRICTIONS RELATING TO PREMIUM RATES.
The following provisions are applicable for all individual health benefit plans. (3-31-22)

01. Rate Manual. An individual carrier develops a rate manual for all individual business. Base premium rates and new business premium rates charged to eligible individuals by the individual carrier are computed solely from the applicable rate manual developed pursuant to this Section. To the extent that a portion of the premium rates charged by an individual carrier is based on the carrier's discretion, the manual specifies the criteria and factors considered by the carrier in exercising such discretion. (3-31-22)

02. Requirements for Adjustments to Rating Method. An individual carrier will not modify the rating method used in the rate manual for its individual business until the change has been approved as provided in this Section. The Director may approve a change to a rating method if the Director finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this chapter. (3-31-22)

~~03. Information for Review of Modification of Rating Method.~~ A carrier may modify the rating method for its individual business only with prior approval of the Director. A carrier requesting to change the rating method for its individual business makes a filing with the Director at least thirty (30) days prior to the proposed date of the change. The filing contains at least the following information: (3-31-22)

- ~~a. The reasons the change in rating method is being requested; (3-31-22)~~
- ~~b. A complete description of each of the proposed modifications to the rating method; (3-31-22)~~
- ~~c. A description of how the change in rating method would affect the premium rates currently charged to eligible individuals in the health benefit plan, including an estimate from a qualified actuary of the number of individuals (and a description of the types of individuals) whose premium rates may change by more than ten percent (10%) due to the proposed change in rating method (not generally including increases in premium rates applicable to all individuals in a health benefit plan); (3-31-22)~~
- ~~d. A certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and (3-31-22)~~
- ~~e. A certification from a qualified actuary that the proposed change in rating method would not produce premium rates for eligible individuals that would be in violation of Section 41-5206, Idaho Code. (3-31-22)~~

~~04.3. Change in Rating Method.~~ For the purpose of this Section a change in rating method means: (3-31-22)

- ~~a. A change in the number of case characteristics used by an individual carrier to determine premium rates for health benefit plans in its individual business (an individual carrier will not use case characteristics other than age, individual tobacco use, geography or gender without prior approval of the Director); (3-31-22)~~
- ~~b. A change in the method of allocating expenses among health benefit plans; or (3-31-22)~~
- ~~c. A change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any individual that exceeds ten percent (10%). (3-31-22)~~
- ~~d. For the purpose of this Subsection, a change in a rating factor means the cumulative change with respect to such factor considered over a twelve (12) month period. If an individual carrier changes rating factors with respect to more than one case characteristic in a twelve (12) month period, the carrier considers the cumulative effect of all such changes in applying the ten percent (10%) test. (3-31-22)~~

~~05. Rate Manual to Specify Case Characteristics and Rate Factors.~~ The rate manual developed pursuant to Subsection 036.01 specifies the case characteristics and rate factors to be applied by the individual carrier in establishing premium rates for the health benefit plans. (3-31-22)

~~06. Prior Approval of Case Characteristics.~~ An individual carrier will not use case characteristics other than those specified in Section 41-5206(1)(f), Idaho Code, without the prior approval of the Director. An individual carrier seeking such an approval makes a filing with the Director for a change in rating method under Subsection 036.02. (3-31-22)

~~07. Uniform Application of Case Characteristics.~~ An individual carrier uses the same case characteristics in establishing premium rates for each health benefit plan and applies them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics are applied without regard to the risk characteristics of an eligible individual. (3-31-22)

~~08. Base Premium Rates and Any Difference in New Business Rate.~~ The rate manual developed pursuant to Subsection 036.01 clearly illustrates the relationship among the base premium rates charged for each health benefit plan. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual illustrates the difference. (3-31-22)

~~09. Reasonable and Objective Rate Differences.~~ Differences among base premium rates for health benefit plans are based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and cannot be based in any way on the actual or expected health status or claims experience of the eligible individual or groups that choose or are expected to choose a particular health benefit plan. An individual carrier applies case characteristics and rate factors within its health benefit plans in a manner that assures that premium differences among health benefit plans for identical individuals vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the actual or expected health status or claims experience of the individuals that choose or are expected to choose a particular health benefit plan. (3-31-22)

~~10. Two Step Process.~~ The rate manual developed pursuant to Subsection 036.01 provides for premium rates to be developed in a two (2) step process. In the first step, a base premium rate is developed for the eligible individual without regard to any risk characteristics. In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Section 41-5206, Idaho Code, to reflect the risk characteristics of the individual. (3-31-22)

~~1104. Exception to Application Fee, Underwriter Fee or Other Fees.~~ Except as provided in Subsection 036.12, a premium charged to an individual for a health benefit plan A carrier will not include charge an individual a separate application fee, underwriting fee, or any other separate fee or charge beyond the premium for a health benefit plan. (3-31-22)(____)

~~12. Uniform Application of Fees.~~ A carrier may charge a separate fee with respect to a health benefit plan provided the fee is applied in a uniform manner to all health benefit plans. All such fees are premium and are included in determining compliance with the Act and this chapter. (3-31-22)

~~13. Uniform Allocation of Administration Expenses.~~ The rate manual developed pursuant to Subsection 036.01 describes the method of allocating administrative expenses to the health benefit plans for which the manual was developed. (3-31-22)

~~1405. Rate Manual to be Maintained for a Period of Six Years.~~ Each rate manual developed pursuant to Subsection 036.01 is maintained by the carrier for a period of six (6) years. Updates and changes to the manual are maintained with the manual. (3-31-22)

~~15. Guidelines Issued by Director.~~ The rate manual and rating practices of an individual carrier comply with any guidelines issued by the Director. (3-31-22)

~~16. Application of Restrictions Related to Changes in Premium Rates.~~ The restrictions related to changes in premium rates are set forth in Section 41-5206(1)(b), Idaho Code, and are applied as follows: (3-31-22)

~~a. An individual carrier revises its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates. (3-31-22)~~

~~b. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate is the change in the base premium rate for the purposes of Sections 41-5206(1)(b)(i) and 41-5206(1)(d)(i), Idaho Code. (3-31-22)~~

~~c. If for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan is considered a health benefit plan into which the individual carrier is no longer enrolling new eligible individuals for the purposes of Section 41-5206(1)(b)(i), Idaho Code. (3-31-22)~~

~~d. If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan by more than twenty percent (20%), the carrier makes a filing with the Director containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing is made within~~

~~thirty (30) days of the beginning of the rating period. (3-31-22)~~

~~e. An individual carrier keeps on file for a period of at least six (6) years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period. (3-31-22)~~

~~**17. Change in Premium Rate.** Except as provided in Subsection 036.18, a change in premium rate for an eligible individual produces a revised premium rate that is no more than the following: (3-31-22)~~

~~a. The base premium rate for the eligible individual, given its present composition, (as shown in the rate manual as revised for the rating period), multiplied by: (3-31-22)~~

~~b. One (1) plus the sum of: (3-31-22)~~

~~i. The risk load applicable to the eligible individual during the previous rating period; and (3-31-22)~~

~~ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (3-31-22)~~

~~**18. Plans No Longer Enrolling New Business.** In the case of a health benefit plan into which an individual carrier is no longer enrolling new individuals, a change in premium rate for an individual will produce a revised premium rate that is no more than the base premium rate for the individual (given its present composition and as shown in the rate manual in effect for the individual at the beginning of the previous rating period), multiplied by Paragraphs 036.18.a. and 036.18.b.; (3-31-22)~~

~~a. One (1) plus the lesser of: (3-31-22)~~

~~i. The change in the base rate; or (3-31-22)~~

~~ii. The percentage change in the new business premium for the most similar health benefit plan into which the individual carrier is enrolling new individuals. (3-31-22)~~

~~b. One (1) plus the sum of: (3-31-22)~~

~~i. The risk load applicable to the individual during the previous rating period; and (3-31-22)~~

~~ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (3-31-22)~~

~~**19. Limitations on Revised Premium Rate.** Notwithstanding the provisions of Subsections 036.17 and 036.18, a change in premium rate for an individual will not produce a revised premium rate that would exceed the limitations on rates provided in Section 41-5206, Idaho Code. (3-31-22)~~

037. -- 045. (RESERVED)

046. REQUIREMENT TO INSURE INDIVIDUALS.

01. Offer of Coverage. An individual carrier that offers coverage to an individual will offer to provide coverage to each eligible individual and to each eligible dependent of an eligible individual. (3-31-22)

02. Risk Characteristics. Individuals are accepted for coverage by the individual carrier without any restrictions or limitations on coverage related to the risk characteristics of the individual or their dependents, except that a carrier may exclude or limit coverage for pre-existing medical conditions, consistent with the provisions provided in Section 41-5208(3), Idaho Code. (3-31-22)

~~**03. Risk Load.** An individual carrier may assess a risk load to the premium rate associated with a new entrant, consistent with the requirements of Section 41-5206, Idaho Code. The risk load is the same risk load charged to the individual immediately prior to acceptance of the new entrant into the health benefit plan. (3-31-22)~~

043. Rescission. When material application misstatements are found, rescission action by the carrier may be taken at the carrier's option. When rescission action is taken, premiums are refunded less any claims which had been paid prior to the date the rescission was initiated. At the carrier's option, the carrier may seek to recover any amounts of claims paid in excess of premiums paid. The applicable contract or coverage is considered null and void. (3-31-22)

054. Coverage Rescinded for Fraud or Misrepresentation. Any individual whose coverage is subsequently rescinded for fraud or misrepresentation will not be an "eligible individual" for a period of twelve (12) months from the effective date of the termination of the individual coverage and cannot be deemed to have "qualifying previous coverage" under Title 41, Chapter 22, 47, 52, or 55, Idaho Code; provided such limitations are not in conflict with the Health Insurance Portability and Accountability Act of 1996. (3-31-22)

065. Certification of Creditable Coverage. (3-31-22)

a. Individual carriers will provide written certification of creditable coverage to individuals in accordance with this Subsection. (3-31-22)

b. The certification of creditable coverage is provided: (3-31-22)

i. At the time an individual ceases to be covered under the health benefit plan or otherwise becomes covered under a COBRA continuation provision; (3-31-22)

ii. In the case of an individual who becomes covered under a COBRA continuation provision, at the time the individual ceases to be covered under that provision; and (3-31-22)

iii. ~~The individual carrier provides~~ Such certification is automatically provided by the individual carrier or at the time a upon request is made on behalf of an individual or automatically if the such request is not made not later than twenty four (24) months after within thirty (30) days of the date of cessation of coverage described in Paragraphs 046.06.b.i. and 046.06.b.ii., ~~whichever is later.~~ (3-31-22)()

c. The certificate of creditable coverage contains: (3-31-22)

i. Written certification of the period of creditable coverage of the individual under the health benefit plan; and (3-31-22)

ii. The waiting period, if any, and if applicable, affiliation period imposed with respect to the individual for any coverage under the health benefit plan. (3-31-22)

047. -- 054. (RESERVED)

055. APPLICATION TO REENTER STATE.

01. Restrictions on Offering Individual Health Insurance. An individual carrier that has been banned from writing coverage for individuals in this state pursuant to Section 41-5207(2), Idaho Code, will not resume offering health benefit plans to individuals in this state until the carrier has made a petition to the Director to be reinstated as an individual carrier and the petition has been approved by the Director. In reviewing a petition, the Director may ask for such information and assurances as the Director finds reasonable and appropriate. (3-31-22)

02. Geographic Service Areas. In the case of an individual carrier doing business in an established geographic service area of the state, if the individual carrier elects to non-renew a health benefit plan under Section 41-5207(3), Idaho Code, the individual carrier is banned from offering health benefit plans to individuals in that service area for a period of five (5) years. (3-31-22)

056. -- 059. (RESERVED)

060. QUALIFYING PREVIOUS AND QUALIFYING EXISTING COVERAGES.

01. Previous Coverage or Existing Coverage. In determining whether a health benefit plan or other health benefit arrangement (whether public or private) is considered qualifying previous coverage or qualifying existing coverage for the purposes of Sections 41-5203(20), and 41-5208(3), Idaho Code, an individual carrier interprets the Act no less favorably to an insured individual than the following: (3-31-22)

a. An individual carrier ascertains the source of previous or existing coverage of each eligible individual and each dependent of an eligible individual at the time such individual or dependent initially enrolls into the health benefit plan provided by the individual carrier. (3-31-22)

061. -- 066. (RESERVED)

067. RESTRICTIVE RIDERS.

Except as permitted in Section 41-5208(3), Idaho Code, an individual carrier will not modify or restrict any health benefit plan with respect to any eligible individual or dependent of an eligible individual, through riders, endorsements or otherwise, for the purpose of restricting or excluding the coverage or benefits provided to such individual or dependent for specific diseases, medical conditions or services otherwise covered by the plan. (3-31-22)

068. -- 074. (RESERVED)

075. RULES RELATED TO FAIR MARKETING.

01. Individual Carrier to Actively Market. An individual carrier actively markets each of its health benefit plans to individuals in this state. (3-31-22)

02. Offer. An individual carrier offers all health benefit plans to any individual that applies for or makes an inquiry regarding health insurance coverage from the individual carrier. ~~The offer may be provided directly to the individual or delivered through a producer.~~ The offer is in writing and includes at least the following information: (3-31-22)()

a. A general description of the benefits contained in the all actively marketed health benefit plans; and (3-31-22)

b. Information describing how the individual may enroll in the plans. (3-31-22)

043. Timeliness of Price Quote. An individual carrier provides a price quote to an individual (directly or through an authorized producer) within fifteen (15) working days of receiving a request for a quote and such information as is necessary to provide the quote. An individual carrier notifies an individual (directly or through an authorized producer) within ten (10) working days of receiving a request for a price quote of any additional information needed by the individual carrier to provide the quote. (3-31-22)

~~**05. Restrictions as to Application Process.** An individual carrier will not apply more stringent or detailed requirements related to the application process for the mandated health benefit plans than are applied for other health benefit plans offered by the carrier. (3-31-22)~~

~~**06. Denial of Coverage.** If an individual carrier denies coverage under a health benefit plan to an individual on the basis of a risk characteristic, the denial is in writing and maintained in the individual carrier's office. This written denial states with specificity the risk characteristic(s) of the individual that made it ineligible for the health benefit plan it requested (for example, health status). The denial is accompanied by a written explanation of the availability of any mandated health benefit plans from the individual carrier. The explanation includes at least the following: (3-31-22)~~

~~**a.** A general description of the benefits contained in each such plan; (3-31-22)~~

~~**b.** A price quote for each such plan; and (3-31-22)~~

~~**c.** Information describing how the individual may enroll in such plans. (3-31-22)~~

~~d. The written information described in this paragraph may be provided within the time periods provided in Subsection 075.04 directly to the individual or delivered through an authorized producer. (3-31-22)~~

~~07. **Premium Rate Charged.** The price quote prescribed under Paragraph 075.06.b. is for the lowest premium rate charged under the rating system for a health benefit plan for which the individual is eligible. (3-31-22)~~

~~08. **Toll-Free Telephone Service.** An individual carrier establishes and maintains a toll-free telephone service to provide information to individuals regarding the availability of individual health benefit plans in this state. The service provides information to callers on how to apply for coverage from the carrier. The information may include the names and phone numbers of producers located geographically proximate to the caller or such other information reasonably designed to assist the caller to locate an authorized producer or to apply for coverage. (3-31-22)~~

~~09. **No Requirement to Qualify for Other Insurance Product.** An individual carrier will not require, as a condition to the offer of sale of a health benefit plan to an individual, that the individual purchase or qualify for any other insurance product or service. (3-31-22)~~

~~10. **Plans Subject to Requirements.** Carriers offering individual health benefit plans in this state are responsible for determining whether the plans are subject to the requirements of the Act and this chapter. (3-31-22)~~

~~11. **Annual Filing Requirement.** An individual carrier files annually the following information with the Director related to health benefit plans issued by the individual carrier to individuals in this state on forms prescribed by the Director: (3-31-22)~~

~~a. The number of individuals that were covered under health benefit plans in the previous calendar year (separated as to newly issued plans and renewals); (3-31-22)~~

~~b. The number of individuals that were covered under each mandated health benefit plan in the previous calendar year (separated as to newly issued plans and renewals). (3-31-22)~~

~~c. The number of individual health benefit plans in force in each county (or by five (5) digit zip code) of the state as of December 31 of the previous calendar year; (3-31-22)~~

~~d. The number of individual health benefit plans that were voluntarily not renewed by Individuals in the previous calendar year; (3-31-22)~~

~~e. The number of individual health benefit plans that were terminated or non-renewed (for reasons other than nonpayment of premium) by the carrier in the previous calendar year; and (3-31-22)~~

~~f. The number of health benefit plans that were issued to residents that were uninsured for at least the sixty-three (63) days prior to issue. (3-31-22)~~

~~12. **Total Number of Residents.** All carriers file annually with the Director, on forms prescribed by the Director, the total number of residents, including spouses and dependents, covered during the previous calendar year under all health benefit plans issued in this state. This includes residents covered under reinsurance by way of excess loss and stop-loss plans. (3-31-22)~~

~~13. **Filing Date.** The information described in Subsections 075.11 and 075.12 is filed no later than March 15, each year. (3-31-22)~~

~~14. **Specific Data.** For purposes of this section, health benefit plan information includes policies or certificates of insurance for specific disease, hospital confinement indemnity, reinsurance by way of excess loss, and stop-loss coverages. (3-31-22)~~

076. -- 080. (RESERVED)

081. BANNED POLICY PROVISIONS.

~~01. Probationary or Waiting Period.~~ Except as provided in Subsection 081.02 for a pre-existing condition, ~~a~~ **a** policy cannot contain provisions establishing a probationary or waiting period during which no coverage is provided under the policy. (3-31-22)()

~~02. Pre-existing Conditions.~~ A policy will not deny, exclude or limit benefits for covered expenses incurred more than twelve (12) months following the effective date of the coverage due to a pre-existing condition. (3-31-22)

~~a.~~ A policy waives any time period applicable to a pre-existing condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage to the extent such previous coverage provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty three (63) days prior to the effective date of the new coverage. (3-31-22)

~~b.~~ A carrier will not modify a policy with respect to an individual or dependent through riders, endorsements, or otherwise, to restrict or exclude coverage for specifically named pre-existing conditions otherwise covered by the policy. (3-31-22)

~~03. Exclusions.~~ A policy cannot limit or exclude coverage by type of illness, accident, treatment or medical condition, except that a policy may include one or more of the following limitations or exclusions: (3-31-22)

~~a.~~ Pre-existing conditions, except for congenital anomalies of a covered dependent child; (3-31-22)

~~b.~~ Mental or nervous disorders, alcoholism and drug addiction; (3-31-22)

~~c.~~ Pregnancy, except for complications of pregnancy; (3-31-22)

~~d.~~ Illness, treatment or medical condition arising out of: (3-31-22)

i. War or act of war (whether declared or undeclared); participation in a felony, riot or insurrections; service in the armed forces or units auxiliary to it; (3-31-22)

ii. Suicide (sane or insane), attempted suicide or intentionally self-inflicted injury; and (3-31-22)

iii. Professional aviation for wage or profit; (3-31-22)

~~e.~~ Cosmetic surgery, except that "cosmetic surgery" cannot include reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part; reconstructive surgery because of congenital disease or anomaly of a covered dependent child; or involuntary complications related to a cosmetic procedure; (3-31-22)

~~f.~~ Foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet; (3-31-22)

~~g.~~ Care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effects of it, where the interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column; (3-31-22)

~~h.~~ Benefits in excess of Medicare eligible expense, if enrolled in Medicare or other governmental program (except Medicaid), or benefits provided under a state or federal worker's compensation law, employers liability or occupational disease law, or motor vehicle no-fault law unless the motor vehicle no-fault plan provides for coordination of benefits; services performed by a member of the covered person's immediate family; and services for which no charge is normally made in the absence of insurance; (3-31-22)

- f.** Dental care or treatment; (3-31-22)
- g.** Eye glasses and the examination for the prescription or fitting of them; (3-31-22)
- h.** Rest cures, custodial care, transportation, and routine physical examinations; (3-31-22)
- i.** Territorial limitations; (3-31-22)
- j.** Hearing aids, auditory osseointegrated (bone conduction) devices, cochlear implants and examination for or fitting of them, except for congenital or acquired hearing loss that without intervention may result in cognitive or speech development deficits of a covered dependent child, covering not less than one (1) device every thirty-six (36) months per ear with loss and not less than forty-five (45) language/speech therapy visits during the first twelve (12) months after delivery of the covered device; (3-31-22)
- k.** Missed or cancelled appointments; completion of claim forms or records copying; failure to vacate a room on or before the facility's established discharge hour; educational and training services except as provided by the policy; over the counter medical supplies, consumable or disposable supplies, including but not limited to elastic stockings, ace bandages, gauze, alcohol swabs or dressings; (3-31-22)
- l.** Treatment, services or supplies not prescribed by or upon the direction of a licensed provider, acting within the scope of his or her license; (3-31-22)
- m.** Services rendered prior to the effective date of coverage or after termination of coverage, except as provided by an extension of benefits provision; and (3-31-22)
- n.** The reversal of an elective sterilization procedure, including but not limited to vasovasostomy or salpingoplasty. (3-31-22)

082. GENERAL MINIMUM STANDARDS.

An insurance policy subject to this chapter cannot be offered, delivered or issued for delivery, continued or renewed in this state unless it meets the following minimum standards. (3-31-22)

01. Outline of Coverage. An insurer will deliver an outline of coverage to an applicant or enrollee with the sale, which complies with the model outline of coverage established by the National Association of Insurance Commissioners (“NAIC”), incorporated herein in Section 002. (3-31-22)

a. If an outline of coverage was delivered at the time of application or enrollment and the policy is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy will accompany the policy when it is delivered and contain the following statement in no less than twelve (12) point type, immediately above the company name: “NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon (application) (enrollment), and the coverage originally applied for has not been issued.” (3-31-22)

b. In any case where the prescribed outline of coverage is inappropriate for the coverage provided by the policy, an alternate outline of coverage is to be submitted to the Director for prior written approval. (3-31-22)

02. Coverage of Dependents. A policy will consider as an eligible dependent a child who is chiefly dependent on the insured for support and maintenance and who is incapable of self-sustaining employment due to intellectual disability or physical disability on the date that the child's coverage would otherwise terminate under the policy due to the attainment of a specified age for children. The policy may require that within thirty-one (31) days of such date the company receives due proof of the incapacity, in order for the insured to elect to continue the policy in force with respect to the child, or that a separate converted policy be issued at the option of the insured or policyholder. (3-31-22)

03. Limitation on Termination of Coverage of Dependent. A policy cannot provide for termination of coverage of a covered dependent solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium. In addition, the policy will provide that in the event of the

insured's death, the spouse or dependent of the insured, if covered under the policy, will become the insured. (3-31-22)

~~**04. Continuous Loss Extension.** Termination of the policy will be without prejudice to a continuous loss that commenced while the policy was in force. Such extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. (3-31-22)~~

~~**05. Pregnancy Benefit Extension.** In the event the insurer cancels or refuses to renew, policies providing pregnancy benefits will provide for an extension of benefits as to pregnancy commencing while the policy is in force and for which benefits would have been payable had the policy remained in force. (3-31-22)~~

064. Expenses of Live Donor. A policy providing coverage for the recipient in a transplant operation also provides reimbursement of any medical expenses of a live donor to the extent that benefits remain and are available under the recipient's policy or certificate, after benefits for the recipient's own expenses have been paid. (3-31-22)

~~**075. Fractures or Dislocations.** A policy providing coverage for fractures or dislocations will not provide benefits only for "full or complete" fractures or dislocations. (3-31-22)~~

086. Coinsurance. Except for out-of-network benefits offered as part of a managed care plan, a coinsurance percentage will not exceed fifty percent (50%) of covered charges. A coinsurance percentage for out-of-network benefits offered as part of a managed care plan will not exceed sixty percent (60%) of covered charges. (3-31-22)

083. -- 100. (RESERVED)

101. DISCLOSURE PROVISIONS.

01. Requisite Provisions. Each policy will include a renewal, continuation or nonrenewal provision. The language or specification of the provision will be consistent with the type of contract to be issued. The provision will be appropriately captioned, will appear on the first page of the policy, and will clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. (3-31-22)

02. Added Riders or Endorsements. Riders or endorsements added to a policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy require signed acceptance by the policyholder. After date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term will be agreed to in writing and signed by the policyholder, except if the increased benefits or coverage is prescribed by law. (3-31-22)

03. Separate Additional Premium. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge is set forth in the policy. (3-31-22)

04. Requisite Definition of Terms. A policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import will include a definition of the terms and an explanation of the terms in its accompanying outline of coverage. (3-31-22)

05. Pre-existing Conditions Limitations. If a policy contains any limitations with respect to pre-existing conditions, the limitations will appear as a separate paragraph of the policy and be labeled as "Pre-existing Condition Limitations." (3-31-22)

06. Requisite Notice. All policies will have a notice prominently printed on the first page of the policy stating in substance that the policyholder has the right to return the policy within ten (10) days of its delivery and have the premium refunded if, after examination of the policy, the policyholder holder is not satisfied for any reason. (3-31-22)

102. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.04.14 – COORDINATION OF BENEFITS

DOCKET NO. 18-0414-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 41-2141, and 41-2216, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, August 7, 2025 2:00 p.m. – 4:00 p.m.
In-person participation is available at: Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
Web meeting link: Click here to join the meeting Meeting ID: 237 139 719 159 3 Passcode: jk3o9Ur2 Download Teams Join on the web

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 purpose of this chapter allows plans to include a coordination of benefits (COB) provision; establish a uniform order of benefit determination; provides authority for the transfer of information and funds; reduces duplication of benefits and claim payment delays; requires COB provisions be consistent with this rule; and provides efficiency in processing claims.

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

No fee or charge imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2025, Idaho Administrative Bulletin, [Volume 25-5, pages 52-53](#) under docket number 18-ZBRR-2501.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

No changes are proposed to the materials incorporated by reference. Pursuant to 67-5202, Idaho Code, and to align with rulemaking standards, the incorporation by reference section will provide specific references with direct links to the materials stated within the chapter.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 2nd day of July, 2025.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0414-2501
(ZBR Chapter Rewrite.)

18.04.14 – COORDINATION OF BENEFITS

000. LEGAL AUTHORITY.

~~Title 41, Chapters 2, 21, 22 and 34,~~ [Section 41-211, Section 41-2141, Section 41-2216, and Section 41-3434](#) Idaho Code. ~~(3-31-22)()~~

001. ~~TITLE AND SCOPE.~~

~~01. Title.~~ IDAPA 18.04.14, “~~Coordination of Benefits.~~” ~~(3-31-22)~~

~~02. Scope.~~ This chapter applies to all plans, as defined [below](#). It allows plans to include a coordination of benefits (COB) provision unless banned by federal law; establish a uniform order of benefit determination under which plans pay claims; provide authority for the orderly transfer of necessary information and funds between plans; reduce duplication of benefits by permitting a reduction of the benefits to be paid by plans that, pursuant to these rules, do not pay their benefits first; reduce claims payment delays; and require that COB provisions be consistent with this rule; and provide greater efficiency in the processing of claims when a person is covered under more than one (1) plan. ~~(3-31-22)()~~

002. INCORPORATION BY REFERENCE.

This rule incorporates by reference the full text of the National Association of Insurance Commissioners (NAIC) Model Coordination of Benefits Contract Provisions ([Appendix A](#)) and the NAIC Consumer Explanatory Booklet ([Appendix B](#)), published as part of the [NAIC 2013 Coordination of Benefits](#) model regulation and available on the Idaho Department of Insurance website. (3-31-22)

003. -- 009. (RESERVED)

010. DEFINITIONS.

~~As used in this chapter, these words and terms have the following meanings, unless the context clearly indicates otherwise:~~ (3-31-22)

01. Allowable Expense. Any health care expense including coinsurance or copayments, and without reduction for any applicable deductible that is covered in full or in part by any of the plans covering the person. If a plan is advised by a covered person that all plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established in accordance with Section 223 of the Internal Revenue Code of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that will not be subject to the deductible as described in Section 223 (c) (2) (C) of the Internal Revenue Code of 1986. An expense that a provider by law or in accordance with contractual agreement is banned from charging a covered person is not an allowable expense. An expense or a portion of an expense that is not covered by any of the plans is not an allowable expense. (3-31-22)

a. The following are examples of expenses or services that are not an allowable expense: (3-31-22)

i. If a covered person is confined in a private hospital room, the difference between the cost of a semi-private room in the hospital and the private room (unless the patient's stay in the private hospital room is medically necessary in terms of generally accepted medical practice, or one of the plans provides coverage for private hospital rooms) is not an allowable expense. (3-31-22)

ii. If a person is covered by two (2) or more plans that compute their benefit payments on the basis of usual and customary fees, or relative value schedule reimbursement or other similar reimbursement methodology, any amount charged by the provider in excess of the highest reimbursement amount for a specified benefit is not an allowable expense. (3-31-22)

iii. If a person is covered by two (2) or more plans that provide benefits or services on the basis of negotiated fees, any amount in excess of the highest of the negotiated fees is not an allowable expense. (3-31-22)

iv. If a person is covered by one plan that calculates its benefits or services on the basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement methodology and another plan that provides its benefits or services on the basis of negotiated fees, the primary plan's payment arrangement is the allowable expense for all plans. However, if the provider has contracted with the secondary plan to provide the benefit or service for a specific negotiated fee or payment amount that is different than the primary plan's payment arrangement and if the provider's contract permits, that negotiated fee or payment is the allowable expense used by the secondary plan to determine its benefits. (3-31-22)

b. The definition of the "allowable expense" may exclude certain types of coverage or benefits such as dental care, vision care, prescription drug or hearing aids. A plan that limits the application of COB to certain coverages or benefits may limit the definition of Allowable Expenses in its contract to expenses that are similar to the expenses that it provides. When COB is restricted to specific coverages or benefits in a contract the definition of "Allowable Expense" includes similar expenses to which COB applies. (3-31-22)()

c. When a plan provides benefits in the form of service, the reasonable cash value of each service will be considered as an allowable expense and a benefit paid. (3-31-22)

d. The amount of the reduction may be excluded from allowable expense when a covered person's benefits are reduced under a primary plan: (3-31-22)

i. Because the covered person does not comply with the plan provisions concerning second surgical opinions or precertification of admissions or services: or (3-31-22)

ii. Because the covered person has a lower benefit because the covered person did not use a preferred provider. (3-31-22)

- 02. Birthday.** Refers only to month and day in a calendar year and does not include the year in which the individual is born. (3-31-22)
- 03. Claim.** A request that benefits of a plan be provided or paid. The benefits claimed may be in the form of: (3-31-22)
- a.** Services (including supplies); (3-31-22)
 - b.** Payment for all or a portion of the expenses incurred; (3-31-22)
 - c.** A combination of Paragraphs 010.03.a. and 010.03.b. of this chapter; or (3-31-22)
 - d.** An indemnification. (3-31-22)
- 04. Closed Panel Plan.** A plan that provides health benefits to covered persons primarily in the form of services through a panel of providers that have contracted with or are employed by the plan, and that excludes benefits for services provided by other providers, except in cases of emergency or referral by a panel member. (3-31-22)
- 05. Consolidated Omnibus Budget Reconciliation Act of 1985 or “COBRA”.** Coverage provided under a right of continuation pursuant to federal law. (3-31-22)
- 06. Coordination of Benefits (COB).** A provision establishing an order in which plans pay their claims, and permitting secondary plans to reduce their benefits so that the combined benefits of all plans do not exceed total allowable expenses. (3-31-22)
- 07. Custodial Parent.** The parent awarded custody by a court decree. In the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation. (3-31-22)
- 08. Group-Type Contract.** A contract that is not available to the general public and is obtained and maintained only because of membership in or a connection with a particular organization or group, including blanket coverage. Group-type contract does not include an individually underwritten and issued guaranteed renewable policy even if the policy is purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer. (3-31-22)
- 09. High-Deductible Health Plan.** Has the meaning given the term under Section 223 of the Internal Revenue Code of 1986, as amended by the Medicare Prescription Drug, Improvement and Modernization Act of 2003. (3-31-22)
- 10. Hospital Indemnity Benefits.** The benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim. (3-31-22)
- 11. Plan.** A form of coverage with which coordination is allowed. Separate parts of a plan for members of a group that are provided through alternative contracts that are intended to be part of a coordinated package of benefits are considered one plan and there is no COB among the separate parts of the plan. If a plan coordinates benefits, its contract states the types of coverage that will be considered in applying the COB provision of that contract. Whether the contract uses the term “plan,” or some other term such as “program,” the contractual definition may be no broader than this definition. The definition of “plan” in the incorporated Appendix A is an example. (3-31-22)
- a.** Plan includes: (3-31-22)
 - i.** Group and nongroup insurance contracts and subscriber contracts; (3-31-22)

- ii. Uninsured group or group-type coverage arrangements; (3-31-22)
- iii. Group and nongroup coverage through closed panel plans; (3-31-22)
- iv. Group-type contracts; (3-31-22)
- v. The medical care components of long-term care contracts, such as skilled nursing care; (3-31-22)
- vi. Medicare or other governmental benefits, except as provided in Subparagraph 010.11.b.ix. of this chapter. That part of the definition of plan may be limited to the hospital, medical and surgical benefits of the governmental program. (3-31-22)
- vii. The medical benefits coverage in automobile “no fault” and traditional automobile “fault” type contracts. No plan is prescribed to coordinate benefits provided that it pays benefits as a primary plan. If a plan coordinates benefits, it will do so in compliance with the provisions of this chapter. (3-31-22)
- viii. Group and nongroup insurance contracts and subscriber contracts that pay or reimburse for the cost of dental or vision care. (3-31-22)
- b.** Plan does not include: (3-31-22)
 - i. Hospital indemnity coverage or other fixed indemnity coverage; (3-31-22)
 - ii. School accident-type coverages, such as contracts that cover students for accidents only, including athletic injuries, either on a twenty-four (24) hour basis or on a “to and from school” basis; (3-31-22)
 - iii. Specified disease or specified accident coverage; (3-31-22)
 - iv. Accident only coverage; (3-31-22)
 - v. Benefits provided in long-term care insurance policies for non-medical services; for example, personal care, adult daycare, homemaker services, assistance with activities of daily living, respite care, and custodial care or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services; ~~(3-31-22)~~ ()
 - vi. Limited benefit health coverage as defined in IDAPA 18.04.08, “Individual Disability and Group Supplemental Disability Insurance Minimum Standards Rule.” (3-31-22)
 - vii. Medicare supplement policies; (3-31-22)
 - viii. A state plan under Medicaid; or (3-31-22)
 - ix. A governmental plan which, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan. (3-31-22)
- 12. Policyholder.** The primary insured named in a non-group insurance policy. (3-31-22)
- 13. Primary Plan.** A plan whose benefits for a person’s health care coverage needs to be determined without taking the existence of any other plan into consideration. A plan is a primary plan if; (3-31-22)
 - a.** The plan either has no order of benefit determination rules, or its rules differ from those permitted by this rule; or (3-31-22)
 - b.** All plans that cover the person use the order of benefit determination prescribed by this rule, and under those rules the plan determines its benefits first. (3-31-22)
- 14. Secondary Plan.** A plan that is not a primary plan. (3-31-22)

011. -- 020. (RESERVED)

021. USE OF MODEL COB CONTRACT PROVISION.

01. Coordination of Benefits. The incorporated by reference Appendix A contains a model COB provision for use in contracts. The use of this model COB provision is subject to the provisions of Subsections 021.02 through 021.04 and the provisions of Section 022. (3-31-22)

02. Coordination of Benefits Attachment. The incorporated by reference Appendix B is a plain language description of the COB process that explains to the covered person how health plans will implement coordination of benefits. It is not intended to replace or change the provisions that are set forth in the contract. Its purpose is to explain the process by which two (2) or more plans will pay for or provide benefits. (3-31-22)

03. Application of Requirements. The COB provision contained in the incorporated by reference Appendix A and the plain language explanation in the incorporated by reference Appendix B do not have to use the specific words and format as shown. Changes may be made to fit the language and style of the rest of the contract or to reflect differences among plans that provide services, that pay benefits for expenses incurred and that indemnify. No substantive changes are permitted. (3-31-22)

04. Limits on COB Provisions. A COB provision will not be used that permits a plan to reduce benefits on the basis that: (3-31-22)

- a. Another plan exists and the covered person did not enroll in that plan; (3-31-22)
- b. A person is or could have been covered under another plan, ~~except with respect to Part B of Medicare~~; or (3-31-22) ()
- c. A person has elected an option under another plan providing a lower level of benefits than another option that could have been elected. (3-31-22)

05. “Always Excess” or “Always Secondary.” No plan may contain a provision that its benefits are “always excess” or “always secondary” except in accordance with this rule. (3-31-22)

06. Closed Panel Provider. Under the terms of a closed panel plan, benefits are not payable if the covered person does not use the services of a closed panel provider. In most instances, COB does not occur if a covered person is enrolled in two (2) or more closed panel plans and obtains services from a provider in one of the closed panel plans because the other closed panel plan (the one whose providers were not used) has no liability. However, COB may occur during the plan year when the covered person receives emergency services that would have been covered by both plans; the secondary plan will use the provisions of Section 023 of this chapter to determine the amount it should pay for the benefit. (3-31-22)

07. Plan Requirements. No plan may use a COB provision, or any other provision that allows it to reduce its benefits with respect to any other coverage its insured may have that does not meet the definition of plan under Subsection 010.11 of this rule. (3-31-22)

022. RULES FOR COORDINATION OF BENEFITS.

01. Order of Benefit Payments. When a person is covered by two (2) or more plans, the rules for determining the order of benefit payments are as follows: (3-31-22)

- a. The primary plan pays or provides its benefits as if the secondary plan or plans did not exist. (3-31-22)
- b. If the primary plan is a closed panel plan and the secondary plan is not a closed panel plan, the secondary plan pays or provides benefits as if it were the primary plan when a covered person uses a non-panel provider, except for emergency services or authorized referrals that are paid or provided by the primary plan.

(3-31-22)

c. When multiple contracts providing coordinated coverage are treated as a single plan under this rule, Section 022 of this chapter applies only to the plan as a whole, and coordination among the component contracts is governed by the terms of the contracts. If more than one (1) carrier pays or provides benefits under the plan, the carrier designated as primary within the plan is responsible for the plan's compliance with this rule. (3-31-22)

d. If a person is covered by more than one (1) secondary plan, the order of benefit determination requirements of this rule decide the order in which secondary plan benefits are determined in relation to each other. Each secondary plan takes into consideration the benefits of the primary plan or plans and the benefits of any other plan, which, under the requirements of this rule, has its benefits determined before those of that secondary plan. (3-31-22)

02. Consistent Order of Benefit Provisions. Except as provided in Paragraph 022.02.a. of this chapter, a plan that does not contain order of benefit determination provisions that are consistent with this rule is always the primary plan unless the provisions of both plans, regardless of the provisions of Subsection 022.02 of this chapter, state that the complying plan is primary. (3-31-22)

a. Coverage that is obtained by virtue of membership in a group and designed to supplement a part of a basic package of benefits may provide that the supplementary coverage is excess to any other parts of the plan provided by the contract holder. Examples of these types of situations are major medical coverages that are superimposed over base plan hospital and surgical benefits, and insurance type coverages that are written in connection with a closed panel plan to provide out-of-network benefits. (3-31-22)

b. A plan may take into consideration the benefits paid or provided by another plan only when, under the requirements of this rule, it is secondary to that other plan. (3-31-22)

03. Order of Benefit Determination. Each plan determines its order of benefits using the first of the following rules that applies. (3-31-22)

a. The plan that covers the person other than as a dependent, for example, as an employee, member, subscriber, policyholder or retiree, is the primary plan and the plan that covers the person as a dependent is the secondary plan. However, if the person is a Medicare beneficiary and, as a result of the provisions of Title XVIII of the Social Security Act and implementing rules, Medicare is: (3-31-22)

i. Secondary to the plan covering the person as a dependent; and (3-31-22)

ii. Primary to the plan covering the person as other than a dependent (e.g. a retired employee), then the order of benefits is reversed so that the plan covering the person as an employee, member, subscriber, policyholder or retiree, is the secondary plan and the other plan covering the person as a dependent is the primary plan. (3-31-22)

b. Unless there is a court decree stating otherwise, plans covering a dependent child determine the order of benefits as follows: (3-31-22)

i. For a dependent child whose parents are married or are living together, whether or not they have ever been married: (3-31-22)

(1) The plan of the parent whose birthday falls earlier in the calendar year is primary plan; or (3-31-22)

(2) If both parents have the same birthday, the plan that has covered the parent longest is the primary plan. (3-31-22)

ii. For a dependent child whose parents are divorced or separated or are not living together, whether or not they have ever been married: (3-31-22)

(1) If a court decree states that one of the parents is responsible for the dependent child's health care

expenses or health care coverage and the plan of that parent has actual knowledge of those terms, that plan is primary. If the parent with responsibility has no health care coverage for the dependent child's health care expenses, but that parent's spouse does, that parent's spouse's plan is the primary plan. This does not apply with respect to any plan year during which benefits are paid or provided before the entity has actual knowledge of the court decree provisions; (3-31-22)

(2) If a court decree states that both parents are responsible for the dependent child's health care expenses or health care coverage, the provisions of Subparagraph 022.03.b.i. of this chapter determine the order of benefits; (3-31-22)

(3) If a court decree states that the parents have joint custody without specifying that one (1) parent has responsibility for the health care expenses or health care coverage of the dependent child, the provisions of Subparagraph 022.03.b.i. of this chapter determine the order of benefits; or (3-31-22)

(4) If there is no court decree allocating responsibility for the child's health care expenses or health care coverage, the order of benefits for the child are as follows: (3-31-22)

(a) The plan covering the custodial parent; (3-31-22)

(b) The plan covering the custodial parent's spouse; (3-31-22)

(c) The plan covering the noncustodial parent; and then (3-31-22)

(d) The plan covering the noncustodial parent's spouse. (3-31-22)

(5) For a dependent child covered under more than one plan of individuals who are not the parents of the child, the order of benefits is determined, as applicable under Subparagraph 022.03.b.i. or 022.03.b.ii. of this chapter as if those individuals were parents of the child. (3-31-22)

(6) For a dependent child who has coverage under either or both parents' plans and also has their own coverage as a dependent under a spouse's plan, the provisions of Paragraph 022.02.e. apply. In the event the dependent child's coverage under the spouse's plan began on the same date as the dependent child's coverage under either or both parents' plans, the order of benefits is determined by applying the birthday rule in Subparagraph 022.02.b.i. to the dependent child's parent(s) and the dependent's spouse. (3-31-22)

c. The plan that covers a person as an active employee; that is, an employee who is neither laid-off nor retired or as a dependent of an active employee is the primary plan. The plan covering that same person as a retired or laid-off employee or as a dependent of a retired or laid-off employee is the secondary plan. If the other plan does not have this rule and if, as a result, the plans do not agree on the order of benefits, this rule is ignored. Coverage provided an individual as a retired worker and as a dependent of that individual's spouse as an active worker will be determined under Paragraph 022.03.a. of this chapter. (3-31-22)

d. If a person whose coverage is provided pursuant to COBRA or under a right of continuation pursuant to federal or state law is covered under another plan, the plan covering the person as an employee, member, subscriber or retiree or covering the person as a dependent of an employee, member, subscriber or retiree is the primary plan and the plan covering that same person pursuant to COBRA or under a right of continuation pursuant to state or other federal law is the secondary plan. If the other plan does not have this rule and if, as a result, the plans do not agree on the order of benefits, this rule is ignored. This provision does not apply if the rule in Paragraph 022.03.a. of this chapter can determine the order of benefits. (3-31-22)

e. If the preceding rules do not determine the order of benefits, the plan that covered the person for the longer period of time is the primary plan and the plan that covered the person for a shorter period of time is the secondary plan. (3-31-22)

i. To determine the length of time a person has been covered under a plan, two (2) successive plans are treated as one (1) if the covered person was eligible under the second plan within twenty-four (24) hours after the coverage under the first plan ended. (3-31-22)

- ii. The start of a new plan does not include: (3-31-22)
 - (1) A change in the amount or scope of a plan’s benefits; (3-31-22)
 - (2) A change in the entity that pays, provides or administers the plan’s benefits; or (3-31-22)
 - (3) A change from one type of plan to another such as from a single employer plan to a multiple employer plan. (3-31-22)
- iii. The person’s length of time covered under a plan is measured from the person’s first date of coverage under that plan. If that date is not readily available for a group plan, the date the person first became a member of the group is used as the date from which to determine the length of time the person’s coverage under the present plan has been in force. (3-31-22)
- f. If none of the preceding rules determines the order of benefits, the allowable expenses are shared equally between the plans. (3-31-22)

023. PROCEDURE TO BE FOLLOWED BY SECONDARY PLAN.

In determining the amount to be paid by the secondary plan on a claim, should the plan wish to coordinate benefits, the secondary plan calculates the benefits it would have paid on the claim in the absence of other health care coverage and apply that calculated amount to any allowable expense under its plan that is unpaid by the primary plan. The secondary plan may reduce its payment by the amount so that, when combined with the amount paid by the primary plan, the total benefits paid or provided by all plans for the claim do not exceed one hundred percent (100%) of the total allowable expense for that claim. In addition, the secondary plan credits to its plan deductible any amounts it would have credited to its deductible in the absence of other benefit care coverage. (3-31-22)

024. NOTICE TO COVERED PERSONS.

A plan, in its explanation of benefits provided to covered persons, includes the following language: “If you are covered by more than one (1) health benefit plan, you should file all your claims with each plan.” (3-31-22)

025. MISCELLANEOUS PROVISIONS.

01. Benefits in the Form of Services. A secondary plan that provides benefits in the form of services may recover the reasonable cash value of the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this provision requires a plan to reimburse a covered person in cash for the value of services provided by a plan which provides benefits in the form of services. (3-31-22)

02. Complying Plan Versus Noncomplying Plan. A plan with order of benefit determination rules that comply with this rule (complying plan) may coordinate its benefits with a plan that is “excess” or “always secondary” or that uses order of benefit determination rules that are inconsistent with those contained in this rule (noncomplying plan) on the following basis: (3-31-22)

- a. If the complying plan is the primary plan, it pays or provides its benefits first; (3-31-22)
- b. If the complying plan is the secondary plan, it pays or provides its benefits first, but the amount of the benefits payable is determined as if the complying plan were the secondary plan. In such a situation, the payment is the limit of the complying plan’s liability; and (3-31-22)
- c. If the noncomplying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan assumes that the benefits of the noncomplying plan are identical to its own and pays its benefits accordingly. If, within two (2) years of payment, the complying plan receives information as the actual benefits of the noncomplying plan, it adjusts payments accordingly. (3-31-22)
 - i. If the noncomplying plan reduces its benefits so that the covered person receives less in benefits

than the covered person would have received had the complying plan paid or provided its benefits as the secondary plan and the noncomplying plan paid or provided its benefits as the primary plan, and governing state law allows the right of subrogation set forth below, then the complying plan advances to the covered person or on behalf of the covered person an amount equal to the difference. (3-31-22)

ii. In no event does the complying plan advance more than the complying plan would have paid had it been the primary plan less any amount it previously paid for the same expense or services. In consideration of the advance, the complying plan is subrogated to all rights of the covered person against the noncomplying plan. The advance by the complying plan is to be without prejudice to any claim it may have against the noncomplying plan in the absence of such subrogation. (3-31-22)

03. COB Versus Subrogation. COB differs from subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other. (3-31-22)

04. Timely Payment of Benefits. If the plans cannot agree on the order of benefits within thirty (30) calendar days after the plans have received all of the information needed to pay the claim, the plans immediately pay the claim in equal shares and determine their relative liabilities following payment, except that no plan is obligated to pay more than it would have paid had it been primary. (3-31-22)

026. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE
18.04.15 – RULES GOVERNING SHORT-TERM HEALTH INSURANCE COVERAGE
DOCKET NO. 18-0415-2501 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 41-4207, and 41-5214, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, August 7, 2025 2:00 p.m. – 4:00 p.m.
In-person participation is available at: Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
Web meeting link: Click here to join the meeting Meeting ID: 237 139 719 159 3 Passcode: jk3o9Ur2 Download Teams Join on the web

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 chapter implements Title 41, Chapter 21, 42, and 52, Idaho Code regarding short-term limited-duration insurance by defining requirements for enhanced short-term plans and nonrenewable short-term coverage, including minimum standards for benefits, rating rules, enrollment, renewability, and required disclosure provisions.

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

No fee or charge imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2025, Idaho Administrative Bulletin, [Volume 25-5, pages 52-53](#) under docket number 18-ZBRR-2501.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 2nd day of July, 2025.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0415-2501
(ZBR Chapter Rewrite.)

18.04.15 – RULES GOVERNING SHORT-TERM HEALTH INSURANCE COVERAGE

000. LEGAL AUTHORITY.

~~Title 41, Chapters 2, 21, 42, and 52,~~ Section 41-211, Section 41-4203, Section 41-4204, and Section 41-5211 Idaho Code. (3-31-22)()

001. ~~TITLE AND SCOPE.~~

01. ~~Title.~~ IDAPA 18.04.15, “Rules Governing Short-Term Health Insurance Coverage.” (3-31-22)

02. ~~Purpose and Scope.~~ This chapter implements Title 41, Chapters 21, 42, and 52, Idaho Code, regarding short-term, limited-duration insurance by defining rules for enhanced short-term plans and nonrenewable short-term coverage, including minimum standards for benefits, rating rules, enrollment, renewability, and disclosure provisions. (3-31-22)()

03. ~~Applicability.~~ This rule applies to all enhanced short-term plans and nonrenewable short-term coverage that provide medical expense coverage. (3-31-22)

002. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the applicable definitions in Chapters 21, 42, and 52, Idaho Code, the following definitions apply: (3-31-22)

01. Benchmark Medical Plan. The health benefit plan identified by the U.S. Department of Health and Human Services to be applicable in establishing minimum benefit coverages by Qualified Health Plans within Idaho, excluding any supplements for pediatric dental or vision. (3-31-22)

02. **Exchange.** Has the meaning set forth in Section 41-6103, Idaho Code. (3-31-22)
03. **Nonrenewable Short-term Coverage.** Short-term, limited-duration insurance that is not renewable, has a total duration of six (6) months or less in total, not to exceed twelve (12) months, and does not extend past the end of the current calendar year, and is not an Enhanced Short-term Plan ~~under Section 41-5203(11), Idaho Code, and this rule.~~ (3-31-22)()
- ~~04. **Preexisting Condition.** (3-31-22)~~
- ~~a. A condition for which an ordinarily prudent person would seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage; (3-31-22)~~
- ~~b. A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or (3-31-22)~~
- ~~c. A pregnancy existing on the effective date of coverage. (3-31-22)~~
054. **Qualified Health Plan or QHP.** A health plan certified as such by the Exchange. (3-31-22)
065. **Reissuance or Replace.** The practice of issuing a short-term, limited-duration insurance policy covering at least one individual having short-term, limited-duration insurance coverage within sixty-three (63) days of the policy's effective date. (3-31-22)
076. **Short-term, Limited-duration Insurance.** Health insurance coverage pursuant to a contract that has a specified expiration date less than twelve (12) months after the original effective date of the contract and, including renewals or extensions, has a total duration of no longer than thirty-six (36) months. (3-31-22)
011. **GENERAL RULES FOR ~~ENHANCED~~ SHORT-TERM ~~PLANS,~~ LIMITED-DURATION INSURANCE.**
Short-term, Limited-duration Insurance is subject to the provisions of IDAPA 18.04.13, Sections 081, 082, and 101. ()
012. **GENERAL RULES FOR ENHANCED SHORT-TERM PLANS.**
01. **Application of Requirements.** Any short-term, limited-duration insurance that, including renewals, reissuance or extensions, has a total duration of ~~longer than six (6)~~ twelve (12) months ~~or longer~~ is subject to the requirements applicable to enhanced short-term plans. (3-31-22)()
02. **Guaranteed Issue.** Enhanced short-term plans are only to be offered on a guaranteed issue basis. (3-31-22)
03. **Portability.** Enhanced short-term plan coverage is qualifying previous coverage ~~under Title 41, Chapter 52, Idaho Code. Preexisting condition exclusions are to be waived for the period of time an individual was previously covered by an enhanced short-term plan or other qualifying previous coverage.~~ (3-31-22)()
04. **Requirement to Offer Exchange Plans.** To offer an enhanced short-term plan, a carrier is to offer individual QHPs through the Exchange in the same service area. (3-31-22)
- ~~012. **GENERAL RULES FOR NONRENEWABLE SHORT TERM COVERAGE.**
Nonrenewable short-term coverage is subject to the provisions of IDAPA 18.04.13, Sections 081, 082, and 101. (3-31-22)~~
013. -- 019. (RESERVED)
020. **ENROLLMENT.**

~~01. Enhanced Short-term Plans. There are two exclusive options for enhanced short-term plan enrollment. (3-31-22)~~

~~a01. Year-round Enrollment. If a carrier will allow year-round enrollment in enhanced short-term plans, the following provisions apply. (3-31-22)()~~

~~i02. Preexisting Conditions. A preexisting condition exclusion period, as defined at Subsection 010.04, may be applied, subject to Section 41-5208, Idaho Code. (3-31-22)()~~

~~ii. The policy is to be offered on a plan year basis, not a calendar year basis. (3-31-22)~~

~~b. Annual Open Enrollment Period. If a carrier restricts enrollment in enhanced short-term plans to an annual open enrollment period, the following apply: (3-31-22)~~

~~i. No preexisting condition exclusion period may be applied. (3-31-22)~~

~~ii. The beginning and ending dates of the open enrollment period are identical to those for enrollment in QHPs, unless the Director allows an extension of the open enrollment period for enhanced short-term plans after determining it is in the public interest. (3-31-22)~~

~~iii. Special enrollment periods are to be allowed to the same extent as QHP enrollment. (3-31-22)~~

~~02. Nonrenewable Short-term Coverage. Nonrenewable short-term coverage is to be offered on a year-round basis. (3-31-22)~~

021. RENEWAL AND REISSUANCE.

01. Enhanced Short-term Plans Renewals. (3-31-22)

a. A policy is to be renewable at the option of the enrollee, consistent with Section 41-5207, Idaho Code. (3-31-22)

b. No new application or questions concerning the health or medical condition of the covered individuals may be requested to effectuate the renewal. (3-31-22)

~~**c.** A policy is not to be renewable beyond thirty-six (36) consecutive months. (3-31-22)~~

~~**d.** Upon exhaustion of a policy's renewability due to duration or age, the policyholder is eligible for enrollment into fully renewable coverage, including all of the current carrier's QHPs, when an enhanced short-term policy has been in effect for at least eleven (11) months. The carrier will provide to the policyholder timely notification of eligibility is to be provided to the policyholder plus the notification of any offer of reissuance. (3-31-22)()~~

02. Enhanced Short-term Plans Reissuances. Upon exhausting renewability due to duration or age, the following provisions apply to reissuance: (3-31-22)

a. No new application or questions concerning the health or medical condition of the covered individuals may be requested for reissuance. (3-31-22)

b. The reissuance premium rate is a change in premium rate subject to ~~IDAPA 18.04.13.036.17~~ Section 41-5206, Idaho Code. (3-31-22)()

03. Nonrenewable Coverage. Carriers are not to renew nonrenewable short-term coverage and are not to reissue or replace nonrenewable short-term coverage issued by the same or another carrier. (3-31-22)

022. RATING REQUIREMENTS.

01. Enhanced Short-term Plans. In addition to the requirements applicable to individual health benefit plans, the following rating requirements apply: (3-31-22)

- a.** Premium rates do not vary by gender. (3-31-22)
- b.** Geographic rating areas are identical to those used for Exchange-offered QHPs. (3-31-22)
- c.** Medical underwriting criteria may be used to ascertain the risk characteristics of an applicant, if the criteria are limited to those in the Universal Health Statement Addendum and available claims data. (3-31-22)

~~**d.** Enhanced short term plans comprise a single risk pool with the carrier's other actively marketed individual health benefit plans subject to Title 41, Chapter 52, Idaho Code. (3-31-22)~~

ed. The rating period is on a calendar year basis, whereby the rates filed apply to all enrollees uniformly during a given calendar year and premium rate changes occur at the start of a new calendar year. (3-31-22)

02. Nonrenewable Short-term Coverage. The following rating requirements apply: (3-31-22)

- a.** The rates cannot utilize case characteristics other than age, individual tobacco use, and geography but may vary by the duration of coverage requested. (3-31-22)
- b.** Case characteristics are applied uniformly, without regard to the risk characteristics of an eligible individual. (3-31-22)
- c.** The premium rate is not affected by an applicant's risk characteristics or health status. (3-31-22)
- d.** The premium rate remains the same for the duration of the policy. (3-31-22)

023. -- 029. (RESERVED)

030. MINIMUM STANDARDS FOR BENEFITS.

01. Minimum Covered Benefits. (3-31-22)

- ~~**a.** Daily hospital room and board expenses subject only to limitations based on average daily cost of the semiprivate room rate in the area where the insured resides; (3-31-22)~~
- ~~**b.** Miscellaneous hospital services; (3-31-22)~~
- ~~**c.** Surgical services; (3-31-22)~~
- ~~**d.** Anesthesia services; (3-31-22)~~
- ~~**e.** In-hospital medical services; and (3-31-22)~~
- ~~**f.** Out-of-hospital care, consisting of physicians' services rendered on an ambulatory basis where coverage is not provided elsewhere in the policy for diagnosis and treatment of sickness or injury, diagnostic x ray, laboratory services, radiation therapy, and hemodialysis ordered by a physician. (3-31-22)~~

~~**02. Minimum Additional Benefits.** A separate premium corresponding to additional benefits offered through a rider is to be filed and actuarially justified. A policy is to provide not fewer than three (3) of the following additional benefits: (3-31-22)~~

- ~~**a.** In-hospital private duty registered nurse services; (3-31-22)~~
- ~~**b.** Convalescent nursing home care; (3-31-22)~~

- ~~c.~~ Diagnosis and treatment by a radiologist or physiotherapist; (3-31-22)
 - ~~d.~~ Rental of special medical equipment, as defined by the insurer in the policy; (3-31-22)
 - ~~e.~~ Artificial limbs or eyes, casts, splints, trusses or braces; (3-31-22)
 - ~~f.~~ Treatment for functional nervous disorders, and mental and emotional disorders; or (3-31-22)
 - ~~g.~~ Out-of-hospital prescription drugs and medications. (3-31-22)
- ~~03.~~ **Enhanced Short-term Plans Covered Benefits.** The following covered benefits and limitations are to be provided, consistent with the Benchmark Medical Plan, including: (3-31-22)()
- ~~a.~~ Ambulatory (outpatient) patient services; (3-31-22)
 - ~~b.~~ Emergency services; (3-31-22)
 - ~~c.~~ Hospitalization; (3-31-22)
 - ~~d.~~ Maternity and newborn care; (3-31-22)
 - ~~e.~~ Mental health and substance use disorder services, including behavioral health treatment; (3-31-22)
 - ~~f.~~ Generic Pprescription drugs; (3-31-22)()
 - ~~g.~~ Rehabilitative and habilitative services and devices; and (3-31-22)()
 - ~~h.~~ Laboratory services; and. (3-31-22)()
 - ~~i.~~ Preventive and wellness services and chronic disease management. (3-31-22)
- ~~04.~~ **Prescription Drug Formulary.** If a prescription drug coverage formulary is applied, the applicable formulary drug list is to: (3-31-22)
- ~~a.~~ Include at least one drug in every United States Pharmacopeia (USP) category and class; (3-31-22)
 - ~~b.~~ Cover a range of drugs across a broad distribution of therapeutic categories and classes and recommended drug treatment regimens that treat all covered disease states, and does not discourage enrollment by any group of enrollees; and (3-31-22)
 - ~~c.~~ Provide appropriate access to drugs included in broadly accepted treatment guidelines and indicative of then-current general best practices. (3-31-22)
- ~~05.~~ **Cost Sharing.** (3-31-22)
- ~~a.~~ Except for out-of-network benefits offered as part of a managed care plan, a coinsurance percentage is not to exceed fifty percent (50%) of covered charges. A coinsurance percentage for out-of-network benefits offered as part of a managed care plan is not to exceed sixty percent (60%) of covered charges. (3-31-22)
 - ~~b.~~ The maximum out-of-pocket is to be stated in the policy and in aggregate is not to exceed ~~four percent (4%) of the aggregate annual limit under the policy for each covered person~~ the limits for OHPs. All deductibles, copayments, coinsurance and any other cost-sharing are applicable to the maximum out-of-pocket. Within the aggregate maximum, the policy may include separate out-of-pocket limits applicable to particular services. (3-31-22)()
 - ~~c.~~ The annual limit is no less than one million dollars (\$1,000,000) for each ~~covered person~~ insured.

(3-31-22)()

~~d. Enhanced short term plans are to provide coverage for and not impose any cost sharing requirements for preventive and wellness services consistent with QHP requirements. (3-31-22)~~

~~06. **Applicability of Mental Health Parity.** Enhanced short term plans are to meet the requirements of Section 2726 of the Public Health Service Act (Mental Health Parity and Addiction Equity Act) in the same manner and extent as QHPs. (3-31-22)~~

~~074. **Benefit Requirements.** The minimum benefits imposed by Subsections 030.01, 030.02, and 030.03 may be subject to all applicable deductibles, coinsurance and general policy exceptions and limitations. Except as disallowed by Subsections 030.03, 030.05, and 030.06, a policy may also have special or internal limitations for nursing facilities, transplants, experimental treatments, services covered under Subsection 030.02, and other special or internal limitations authorized by the Director. Except as authorized by this Subsection through the application of special or internal limitations, a policy will cover, after any deductibles or coinsurance provisions are met, the usual, customary and reasonable charges, as determined consistently by the carrier and as subject to prior written approval by the Director or another rate agreed to between the insurer and provider, for covered services up to the annual limit. (3-31-22)()~~

031. -- 039. (RESERVED)

040. DISCLOSURE PROVISIONS.

Polices subject to this chapter will include in the application for coverage, any application materials, and the insurance contract, the following language in at least 14-point type:

“This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits (such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services). Your policy might also have lifetime and/or annual dollar limits on health benefits. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage.” (3-31-22)

041. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.06.05 – MANAGING GENERAL AGENTS

DOCKET NO. 18-0605-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Thursday, August 7, 2025 2:00 p.m. – 4:00 p.m.
In-person participation is available at: Department of Insurance 700 W. State St. 3rd Floor Boise, ID 83702
Web meeting link: Click here to join the meeting Meeting ID: 237 139 719 159 3 Passcode: jk3o9Ur2 Download Teams Join on the web

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 purpose of this chapter implements and administers provisions in the Managing General Agent Act, which includes governing qualifications and procedures for acquiring the status as a Managing General Agent.

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

No fee or charge imposed or increased.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2025, Idaho Administrative Bulletin, [Volume 25-5, pages 52-53](#) under docket number 18-ZBRR-2501.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: None.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 2nd day of July, 2025.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0605-2501
(ZBR Chapter Rewrite.)

18.06.05 – MANAGING GENERAL AGENTS (MGA)

000. LEGAL AUTHORITY.

~~Managing General Agent Act (MGA Act), Title 41, Chapters 15 and 2, Section 41-211, Idaho Code. (3-31-22)()~~

001. ~~TITLE AND SCOPE.~~

~~IDAPA 18.06.05, "Managing General Agents." This chapter implements and administers provisions of the MGA Act Title 41, Chapter 15, Idaho Code. (3-31-22)()~~

002. -- 009. (RESERVED)

010. DEFINITIONS.

~~**01. Applicability of Statutory Definitions.** The definitions contained in the MGA Act as set forth in Section 41-1502, Idaho Code, apply. (3-31-22)()~~

011. NOTICE PROVISIONS.

~~**01. Notice by MGA.** Upon licensure and, thereafter, on or before July 1 of each year, any person, firm, association or corporation acting in the state of Idaho in the capacity of as an MGA as defined in Section 41-1502(3), Idaho Code, provides notice to the Director of the Department, which includes: (3-31-22)()~~

~~a. A certified copy of the surety bond prescribed by ~~Subsection 013-01~~ Section 41-1503(3), Idaho Code. (3-31-22)()~~

~~b. Proof of insurance coverage as prescribed by ~~Subsection~~ Section 013-02. (3-31-22)()~~

~~c. The appropriate nonrefundable designation fee prescribed by IDAPA 18.01.02. (3-31-22)~~

~~d. A list of all names and addresses of insurers doing business in the State of Idaho or Idaho domestic insurers with which the MGA has a contract and a verified statement on a form provided by the Department that the~~

contract(s) contain the provisions prescribed by [Section 41-1504, Idaho Code](#). (3-31-22)

02. Notice by Insurer. In addition to those items specified in [Section 41-1505\(5\), Idaho Code](#) notice by the insurer will include: ~~(3-31-22)~~()

a. The name and address of the MGA; (3-31-22)

b. ~~Proof that the MGA has met the bonding requirements of Section 41-1503(3), Idaho Code;~~ ()

bc. Proof that the MGA has met ~~the bonding and~~ insurance requirements of Section 013; ~~(3-31-22)~~()

ed. Procedures and timetable for conducting an onsite review of the underwriting and claims processing operation of the MGA as prescribed by [Section 41-1505\(3\), Idaho Code](#); and (3-31-22)

de. The name of an officer of the insurer responsible for the contract. (3-31-22)

012. ~~(RESERVED)~~BOND.
~~The bond amount, as prescribed in Section 41-1503(3), Idaho Code will be adjusted accordingly on or before July 1 of each year. Coverage cannot be written by the insurer or an affiliate of the insurer employing the MGA. ()~~

013. ~~SECURITY PAYMENTS~~ERRORS AND OMISSIONS POLICY.

01. ~~Bond.~~ All MGAs acquire a surety bond for the protection of the insurer and insureds. ~~The bond will be in the amount of fifty thousand dollars (\$50,000) or ten percent (10%) of the amount of total funds handled within the preceding year, whichever is greater. The bond amount will be adjusted accordingly on or before July 1 of each year. Coverage cannot be written by the insurer or an affiliate of the insurer employing the MGA. (3-31-22)~~

02. ~~Errors and Omissions Policy.~~ All MGAs acquire and maintain an errors and omissions insurance policy providing for claims arising out of the MGA's negligent acts, errors or omission. The policy coverage limit is set at two hundred fifty thousand dollars (\$250,000) or twenty-five percent (25%) of the gross amount of direct written premiums received by an insurer for the previous calendar year that are attributable to the MGA, whichever is greater. The policy coverage limit will be adjusted accordingly on or before July 1 of each year. Unless approved by the director, coverage will not be written by the insurer or an affiliate of the insurer employing the MGA. ~~(3-31-22)~~()

014. INDEPENDENT AUDIT OR EXAMINATION.

01. Annual Independent Audit of MGA. An independent audit by a certified public accountant is conducted annually for MGAs currently under contract; and is to be contracted for by the insurer. The independent audit will include the following: ~~(3-31-22)~~()

a. Report of independent certified public accountant; (3-31-22)

b. Balance sheet; (3-31-22)

c. Statement of income; (3-31-22)

d. Statement of cash flow; (3-31-22)

e. Statement of income and retained earnings; (3-31-22)

f. Notes on financial statements - these notes are those prescribed by General Accepted Accounting Principals; and (3-31-22)

g. A copy of a management letter or a narrative statement setting forth what would have been the content of the management letter had such letter been completed. (3-31-22)

02. Examination of MGA. The Department retains authority to examine an MGA notwithstanding the termination of the MGA's contractual authority. Pursuant to the provisions of [Title 41, Chapter 2, Idaho Code](#), ~~the expense of such examination is to be reimbursed to the Department by~~ the insurer employing the MGA ~~reimburses the Department for the expense of such examination.~~ [reimburses the Department for the expense of such examination.](#) (3-31-22)()

015. TERMINATION OF CONTRACT.

01. Notice to the Department. Notice of the termination of an agreement between an MGA and an insurer for which the MGA was conducting business in the state of Idaho will include the name of the person, ~~firm, association or corporation~~ acting as an MGA under the terms of the contract and the basis for the termination. (3-31-22)()

02. Delivery of Records to Insurer upon Termination of Contract. If the contract between an insurer and an MGA is terminated for any reason, the MGA will, upon request by the insurer, deliver all records to the insurer within ninety (90) days of the request. (3-31-22)

016. -- 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS
20.03.08 – EASEMENTS ON STATE-OWNED LANDS
DOCKET NO. 20-0308-2501 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 58-104 and 58-105, 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 August 20, 2025.

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 Idaho Department of Lands initiated this rulemaking in compliance with [Executive Order 2020-01: Zero-Based Regulation](#). This rule chapter is scheduled for a comprehensive review in 2025 and legislative review in 2026 with the goal of simplifying and streamlining the rules for increased clarity and ease of use.

The regulatory burden has been reduced by decreasing both the total word count 14.3% and the number of restrictive words 26.7% in the proposed rule. No changes were made that changed the context of the previous rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 5, 2025 Idaho Administrative Bulletin, [Vol. 25-3, pages 19-21](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lawson Tate at (208) 263-5104 or ltate@idl.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 2nd day of July, 2025.

Lawson Tate, Right-of-Way Program Manager
2550 Highway 2 West
Sandpoint, Idaho 83864
Phone: (208) 263-5104
ltate@idl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 20-0308-2501
(ZBR Chapter Rewrite.)

20.03.08 – EASEMENTS ON STATE-OWNED LANDS

000. LEGAL AUTHORITY.

~~These rules are promulgated pursuant to and are to be construed in a manner consistent with the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Idaho Code Title 58, Chapters 1 and 6, and Article IX, Sections 7 and 8 of the Idaho Constitution. Title 58, Chapter 1, Idaho Code, Title 58, Chapter 3, Idaho Code.~~ (3-18-22)()

001. TITLE AND SCOPE.

~~01. Title.~~ These rules are titled IDAPA 20.03.08, “Easements on State Owned Lands.” (3-18-22)

~~02. Scope.~~ These rules set forth procedures concerning the issuance of easements on all lands within the jurisdiction of the Idaho State Board of Land Commissioners except for state-owned ~~submerged lands and formerly submerged lands~~ navigable waterways. Further, ~~†~~ These rules do not apply to easements for hydroelectric projects. (3-18-22)()

~~031. Valid Existing Rights.~~ These rules are not to be construed as affecting any valid existing rights. (3-18-22)()

002. ADMINISTRATIVE APPEALS.

An applicant aggrieved by a decision of the Director under these rules may request a hearing before the Board, but must do so within thirty (30) days after receipt ~~of written notice~~ of the Director’s decision. (3-18-22)()

003. -- 009. (RESERVED)

010. DEFINITIONS.

~~01. Assignment.~~ The complete transfer of rights and obligations of an easement in good standing from holder to succeeding right holder (assignor), acknowledged by the Department (servient estate). ()

~~042. Board.~~ The Idaho State Board of Land Commissioners or ~~such representative as may be designated by the Board~~ its designee. (3-18-22)()

~~023. Damage or Impairment of Rights to the Remainder of the Property.~~ The diminution of the market value of the remainder area, in the case of a partial taking. (3-18-22)

~~034. Department.~~ The Idaho Department of Lands. (3-18-22)

~~045. Director.~~ The Director of the Idaho Department of Lands or ~~such representative as may be designated by the Director~~ its designee. (3-18-22)()

~~056. Easement.~~ A non-possessory interest in land for a specific purpose. Such interest may be limited to a specified term. (3-18-22)

~~067. Endowment Lands.~~ Land grants made to the state of Idaho by the Congress of the United States, or real property subsequently acquired through land exchange or purchase, for the sole use and benefit of the public schools and certain other institutions of the state, comprising nine (9) grants altogether Land grants made to the state

of Idaho by the Congress of the United States, or real property subsequently acquired through land exchange or purchase, for the sole use and benefit of the public schools and certain other institutions of the state, comprising nine (9) grants altogether. (3-18-22)(____)

08. Grantee. The person or entity receiving the property right or permission. (____)

09. Grantor. The person or entity transferring, selling, or giving the property right or permission. Herein the Department or Board granting a right-of-way, easement or permit. (____)

~~07~~**10. Market Value.** The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, ~~for which that~~ the property should bring in a competitive and open market under all conditions requisite to ~~a fair sale an arm's length sale~~, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. (3-18-22)(____)

11. Right-of-Way. The area on, below, or above a road, highway, street, waterway, or utility easement over which a legal right of passage exists for the benefit of a specific purpose. Such passage and use rights may be limited as defined and limited to a specified term. (____)

~~08~~**12. State-Owned Lands.** All lands within the jurisdiction of the Idaho State Board of Land Commissioners except for state-owned ~~submerged lands or formerly submerged lands~~ navigable waterways. (3-18-22)(____)

~~09~~**13. Temporary Permit.** An instrument authorizing a specific use on state land usually issued for five (5) years or less, but that may be issued for up to ~~ten~~ twenty (~~10~~20) years. (3-18-22)(____)

011. -- 019. (RESERVED)

020. POLICY.

01. Easements Required. Easements are required for all rights-of-way of a permanent nature over state-owned land. Easements will not be granted when temporary permits ~~will~~ serve the ~~required~~ intended purpose or when a lease is appropriate. (3-18-22)(____)

02. Prior Grants. The Director will recognize easements on state endowment lands by grant of the federal government, or subsequent landowners, prior to title vesting with the State or by eminent domain. (3-18-22)

03. Existing Easements. These rules do not apply to any use, facility or structure described in an existing easement. For amendment of an existing easement, see Section 025. (3-18-22)

04. Director's Discretion. The Director may grant ~~an a temporary permit or~~ easement over state-owned land for any legitimate public or private purpose upon payment of appropriate compensation. (3-18-22)(____)

05. Reciprocal Easements. The Director may seek reciprocal easements for access to state-owned lands from applicants for easements over state-owned lands. The value of the easement acquired by the state may be applied towards the cost of the easement acquired from the state. (3-18-22)

06. Interest Granted. An easement grants only such interest ~~to the grantee~~ as is specified in the instrument, including the right to use the property for the specified purpose ~~without interference by the grantor~~. The right to use the property for all other purposes ~~not inconsistent with~~ aside from the grantee's limited interest remains with the grantor. (3-18-22)(____)

07. Limit of Director's Discretion. The Director may grant and renew all easements ~~in all cases~~ except when the compensation will exceed ~~twenty five thousand dollars (\$25,000)~~ the limits as delegated by the Board exclusive of the value of timber and payment for any damage or impairment of rights to the remainder of the property. (3-18-22)(____)

08. Width of Easement. The width of any easement granted may not be less than eight (8) feet.

(3-18-22)

09. Recordation. The Department will record the easement, or easement release, with the appropriate county recorder’s office. (3-18-22)

10. Term Easement. The Director may grant an easement ~~that is issued~~ for a specific time period of ten (10) to fifty-five (55) years. ~~(3-18-22)~~ ()

021. FEES AND COMPENSATION.

~~**01. Application Fee.** The application fee for new, renewed, or amended easements is one hundred dollars (\$100) and is collected from all applicants. This application fee is in addition to the easement compensation and appraisal costs, and is non-refundable unless the Director determines that the land applied for is not under the jurisdiction of the Board. (3-18-22)~~

~~**02. Easement Fee.** The compensation for permanent easements over state-owned lands covered by these rules is as follows:~~

	COMPENSATION
Highways, roads, railroads, reservoirs, trails, canals, ditches, or any other improvements that require long term, exclusive or near exclusive use and occupation of the right of way	Up to 100% of land value plus payment for any damage or impairment of rights to the remainder of the property as determined by the Director and supported by specific data such as an appraisal
Overhead transmission and power lines	Up to 100% of land value depending on the exclusivity of use as determined by the Director and supported by specific data such as an appraisal plus payment for any damage or impairment of rights to the remainder of the property as determined by the Director and supported by data such as an appraisal
Buried installations—cables, pipelines, sewerlines, waterlines	Up to 100% of land value, depending on the exclusivity use as determined by the Director and supported by specific data such as an appraisal plus payment for any damage or impairment of rights to the remainder of the property, as determined by the Director and supported by specific data such as an appraisal

(3-18-22)

~~**03. Appraisal Required.** An appraisal of an easement may be required where, in the opinion of the Director, the easement value will exceed the minimum compensation fee of five hundred dollars (\$500). (3-18-22)~~

~~**01. Easement Fee.** The compensation for easements over state-owned lands: Up to one hundred percent (100%) of market value, plus payment for any damage or impairment of rights to the remainder of the property, and proportional payment for any existing improvements within the right-of-way, such as a road, road surfacing, culverts, and bridges, as determined by the Director and supported by specific data such as an appraisal. ()~~

~~**a.** A commensurate portion of the value created by the right of way, as determined by the Director and supported by specific data such as an appraisal. ()~~

~~**042. Performance of Appraisal.** The appraisal of the easement ~~will normally be~~ may be performed by qualified Department staff or as determined by the Director. If so desired by the applicant, and agreed to by the Director, the applicant may provide the appraisal that is acceptable to and meets the specifications set by the Director. (3-18-22) ()~~

~~**053. Appraisal Costs.** An Applicant shall bear the costs of an appraisal. Where the appraisal is~~

performed by ~~the Department staff, the appraisal is two hundred fifty dollars (\$250) for a market analysis, five hundred dollars (\$500) for a short form appraisal, and one thousand dollars (\$1,000) for appraisals of easements requiring Board approval. The appraisal cost is in addition to those costs outlined in Subsections 021.01 and 021.02. In no case will~~, an applicant will not be charged more than one thousand dollars (\$1000) for an appraisal ~~of an easement conducted by departmental staff.~~ (3-18-22)()

064. Term Easements. Compensation for term easements will be established by appraisal or as determined by the Director. (3-18-22)()

075. Minimum Compensation. The minimum compensation for any easement is ~~five hundred dollars (\$500), at the discretion of the Land Board,~~ not including the ~~application fee and~~ appraisal costs. (3-18-22)()

022. -- 024. (RESERVED)

025. EASEMENT AMENDMENT.

Amendment of an existing easement must be processed in the same manner as a new application. Amendment includes change of use, widening the easement area, or changing the location of the easement area. Amendment does not include ordinary maintenance, repair, or replacement of existing structures such as poles, wires, cables, and culverts. (3-18-22)

026. -- 029. (RESERVED)

030. EMERGENCY WORK.

The grantee is authorized to enter ~~upon~~ endowment ~~lands~~ and other state-owned lands ~~managed by the Department for the purpose of to~~ performing emergency repairs ~~on an easement~~ for damage due to vandalism, floods, fire, high winds and other acts of God, provided that the grantee provides written notice to the ~~Director~~ Department within forty-eight (48) hours of the time work commences. ~~Thereupon, t~~ The Director is authorized to assess any damages to the state lands and seek reimbursement. (3-18-22)()

031. -- 034. (RESERVED)

035. COOPERATIVE USE AND RECIPROCAL USE AGREEMENTS.

01. Joint Agreements. The Director may, subject to the approval of the Board, enter into joint ownership and use agreements with persons, entities, other state, federal, or tribal agencies for roads providing access to ~~state~~ endowment lands and other state-owned lands managed by the Department. Such agreements must provide that all landowners share proportionately in the cost of building and maintaining the shared road. The proportionate shares are calculated on timber volume, acreage or other unit of value. (3-18-22)()

02. Reciprocal Use Agreements. The Director may enter into reciprocal use agreements with persons, entities, or other state agencies for existing roads where such agreements will enhance the management of ~~state~~ endowment lands or other state-owned lands ~~managed by the Department.~~ (3-18-22)()

03. Applicability. Where the Director has entered into such agreements mentioned in Subsections 035.01 and 035.02 above, Sections 021, 040, and 046 do not apply. (3-18-22)

036. -- 039. (RESERVED)

040. ASSIGNMENTS.

01. FeeForm. Easements issued by the Director or by the Board are assignable provided that the assignor and assignee complete the Department's standard assignment form ~~and forward it and the non-refundable assignment fee of fifty dollars (\$50) to any department office.~~ (3-18-22)()

02. Prior Written Consent. An assignment is not valid without the prior written consent of the Director. Such consent will not be unreasonably withheld. (3-18-22)

03. Multiple Assignments. ~~If a~~ All state easements held by a grantee ~~are~~ may be assigned at one time; ~~only one (1) assignment fee is required.~~ (3-18-22)()

041. ABANDONMENT, RELINQUISHMENT, AND TERMINATION.

01. Section 58-603, Idaho Code. The provisions of Idaho Code Section 58-603 apply to all easements over state-owned lands. (3-18-22)

02. Non-Use. An easement not used for the purpose for which it was granted, for five (5) consecutive years, is presumed abandoned and automatically terminates. The Director will notify the grantee in writing of the termination. The grantee has thirty (30) days from the date of notification to reply in writing to the Director to show cause why the easement should be reinstated. Within sixty (60) days of receipt of the statement to show cause, the Director will notify the grantee in writing as to the Director's decision concerning reinstatement. The grantee has thirty (30) days of receipt of the Director's decision to appeal an adverse decision to the Board. (3-18-22)

03. Removal of Improvements. Upon termination, the grantee has twelve (12) months from the date of final notice to remove any facilities and improvements. (3-18-22)

04. Voluntary Relinquishment. The grantee may voluntarily relinquish the easement at any time by completing an easement relinquishment form provided by the Department. ~~The Department will pay the grantee one dollar (\$1) for the relinquishment.~~ (3-18-22)()

042. -- 045. (RESERVED)

046. PROCEDURE.

01. Contents of Application. ~~An easement~~ A right-of-way application contains: (3-18-22)()

a. A ~~letter of request~~ narrative description stating necessity and the purpose of the ~~easement~~ right-of-way; (3-18-22)()

b. A map of the requested right-of-way ~~in triplicate~~; and (3-18-22)()

c. ~~One (1) copy of an acceptable~~ An accurate written legal description based on a centerline survey or a metes and bounds survey of the perimeter of the easement tract. The applicant may also describe the area occupied by existing uses, facilities or structures by platting the state-owned land affected by and occupied by the proposed use and showing surveyed or scaled ties (to a legal corner) at the points where the use enters, occupies and leaves the parcel. (3-18-22)()

02. Engineer Certification. ~~As required in Section 58-601, Idaho Code, for a~~ Any application for a ditch, canal or reservoir, the plats and field notes must be certified by the engineer under whose direction such surveys or plans were made and four (4) copies filed with the Department and one (1) copy with the Director, Department of Water Resources as required in Section 58-601, Idaho Code. (3-18-22)()

03. Where to Submit Application. An ~~easement~~ application may be submitted to any office of the Department. (3-18-22)()

04. Notification of Approval. If approved, the applicant will be notified of the amount due to the Department. (3-18-22)

05. Notification of Denial. If the application is denied, the applicant will be notified in writing of such decision. (3-18-22)

~~047. EASEMENTS ON STATE LAND UNDER LAND SALE CONTRACT.~~

~~01. Approval of Contract Purchaser.~~ ~~The Director will not approve an easement on lands under contract of sale (land sale certificate) without the approval of the contract sale purchaser or without reviewing the~~

~~consideration received to insure that the state's interests are protected. (3-18-22)~~

~~**02. Compensation.** The compensation for easements on lands under land sale contract will be as set out in Section 021 except that "land value" may be the sale value. These moneys will be applied to the principal balance on the land sale contract. Additionally, the Department will collect the one hundred dollar (\$100) application fee. (3-18-22)~~

~~**03. Co-Signature of Contract Purchaser.** The contract sale purchaser must co-sign the easement to validate the document. (3-18-22)~~

~~0487. -- 999. (RESERVED)~~

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.02.01 – RULES OF THE STATE ATHLETIC COMMISSION

DOCKET NO. 24-0201-2501

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-406(1), Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website (<https://dopl.idaho.gov/calendar/>) and <https://townhall.idaho.gov>.

24.02.01 – Rules of the State Athletic Commission
<p>Monday, August 11, 2025 10:00 a.m. (MT)</p> <p>Attend via Teams: Link Meeting ID: 214 064 609 291 9 Password: ti2ix9Cf</p> <p>Attend in person at: Division of Occupational and Professional Licenses Thunderbolt Room, Chinden Campus 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</p>

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

To increase participation in the Commission's events, the Commission is seeking to decrease licensing fees for professional, amateur, and non-combatants. Changes under consideration are to decrease amateur fees from \$100 to \$50, professional fees from \$150 to \$100, and non-combatants from \$150 to \$50 annually.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Kolby Reddish, Chief Legal Counsel, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before scheduled meeting.

DATED this 6th day of August, 2025.

Kolby K. Reddish
Chief Legal Counsel
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2519
Email: kolby.reddish@dopl.idaho.gov

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES
24.05.01 – RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS
DOCKET NO. 24-0501-2501
NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-2406(1), Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website (<https://dopl.idaho.gov/calendar/>) and <https://townhall.idaho.gov>.

24.05.01 – Rules of the Board of Drinking Water and Wastewater Professionals
Monday, August 11, 2025 11:00 a.m. (MT)
Attend via Webex: Link Meeting number: 2631 325 5825 Password: bPBMmbfP833
Attend in person at: Division of Occupational and Professional Licenses Thunderbolt Room, Chinden Campus 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The contemplated rules changes would: (1) update the calculation of continuing education and limit the number of managerial units required, (2) reduce regulatory burdens by eliminating the responsible charge requirements and decrease system classifications, (3) clarify completions for apprenticeship programs, (4) streamline the process for acquiring a higher level of license, and (5) address the Board's cash balances by increasing fees.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Kolby Reddish, Chief Legal Counsel, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before scheduled meeting.

DATED this 6th day of August, 2025.

Kolby K. Reddish
Chief Legal Counsel
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2519
Email: kolby.reddish@dopl.idaho.gov

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.23.01 – RULES OF THE SPEECH, HEARING, AND COMMUNICATION SERVICES LICENSURE BOARD

DOCKET NO. 24-2301-2501

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 54-2910(3) and 54-2916B(1), Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website (<https://dopl.idaho.gov/calendar/>) and <https://townhall.idaho.gov>.

<p>24.23.01 – Rules of the Speech, Hearing and Communication Services Licensure Board</p>
<p>Monday, August 11, 2025 9:00 a.m. (MT)</p> <p>Attend via Teams: Link Meeting ID: 274 803 542 131 7 Passcode: oB6Nf2Jw</p> <p>Attend in person at: Division of Occupational and Professional Licenses Thunderbolt Room, Chinden Campus 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</p>

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rule adds a license type for Sign Language Video Interpreting, and fee, as required by 2025's HB 311.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Kolby Reddish, Chief Legal Counsel, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before scheduled meeting.

DATED this 6th day of August, 2025.

Kolby K. Reddish
Chief Legal Counsel
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2519
Email: kolby.reddish@dopl.idaho.gov

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES
24.32.01 – RULES OF THE IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS

DOCKET NO. 24-3201-2501

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-1208, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website (<https://dopl.idaho.gov/calendar/>) and <https://townhall.idaho.gov>.

<p>24.32.01 – Rules of Board of Licensure of Professional Engineers and Professional Land Surveyors</p>
<p>Monday, August 11, 2025 11:00 a.m. (MT)</p> <p>Attend via Webex: Link Meeting number: 2631 325 5825 Password: bPBMmbfP833</p> <p>Attend in person at: Division of Occupational and Professional Licenses Thunderbolt Room, Chinden Campus 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</p>

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rule would move the official fee table for Idaho Board of Professional Engineers and Land Surveyors (IPELS) from a posting on the Division of Occupational and Professional Licensing website into rule to comply with 2025 HB 107's direction that "all licensure fees shall be established in statute or rule." Importantly, there are no contemplated changes to the current fee amounts. Instead, the current fees will simply be established in rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Kolby Reddish, Chief Legal Counsel, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before scheduled meeting.

DATED this 6th day of August, 2025.

Kolby K. Reddish
Chief Legal Counsel
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2519
Email: kolby.reddish@dopl.idaho.gov

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.35.01 – RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 24-3501-2501

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 36-2107(b) and (d), 36-2109(a), and 36-2110(c), Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website (<https://dopl.idaho.gov/calendar/>) and <https://townhall.idaho.gov>.

<p>24.35.01 – Rules of the Idaho Outfitters and Guides Licensing Board</p>
<p>Monday, August 11, 2025 10:00 a.m. (MT)</p> <p>Attend via Teams: Link Meeting ID: 214 064 609 291 9 Password: ti2ix9Cf</p> <p>Attend in person at: Division of Occupational and Professional Licenses Thunderbolt Room, Chinden Campus 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</p>

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

Removes definitions that are duplicative of statute, making requested changes to tag calculations, and proposes changes to the operating boundaries in three river sections.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Kolby Reddish, Chief Legal Counsel, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before scheduled meeting.

DATED this 6th day of August, 2025.

Kolby K. Reddish
Chief Legal Counsel
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2519
Email: kolby.reddish@dopl.idaho.gov

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.39.30 – RULES OF BUILDING SAFETY (BUILDING CODE RULES)

DOCKET NO. 24-3930-2502

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 39-4107(1), Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website (<https://dopl.idaho.gov/calendar/>) and <https://townhall.idaho.gov>.

<p>24.39.30 – Rules of Building Safety (Building Code Rules)</p>
<p>Monday, August 11, 2025 11:00 a.m. (MT)</p>
<p>Attend via Webex: Link Meeting number: 2631 325 5825 Password: bPBMmbfP833</p>
<p>Attend in person at: Division of Occupational and Professional Licenses Thunderbolt Room, Chinden Campus 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</p>

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rule would have the Idaho Building Code Board adopt the 2024 version of the International Building Code (IBC). Support for the currently adopted Building Code (IBC 2018) is being phased out including access to the tools and documentation that inspectors rely on to enforce the IBC.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Kolby Reddish, Chief Legal Counsel, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before scheduled meeting.

DATED this 6th day of August, 2025.

Kolby K. Reddish
Chief Legal Counsel
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2519
Email: kolby.reddish@dopl.idaho.gov

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.41.01 – RULES OF THE LONG-TERM CARE ADMINISTRATORS BOARD

DOCKET NO. 24-4101-2501 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 54-1605(2) and 54-1605(4), Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website (<https://dopl.idaho.gov/calendar/>) and <https://townhall.idaho.gov>.

<p>24.41.01 – Rules of the Long-Term Care Administrators Board</p>
<p>Monday, August 11, 2025 10:00 a.m. (MT)</p> <p>Attend via Teams: Link Meeting ID: 214 064 609 291 9 Password: ti2ix9Cf</p> <p>Attend in person at: Division of Occupational and Professional Licenses Thunderbolt Room, Chinden Campus 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</p>

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders. The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

2025 HB 28 merged two previous Boards within DOPL into the new Board of Long Term Care Administrators. This rulemaking will merge the substance of the predecessor Board rules, approved by the Legislature in 2025, into a new chapter of rules for the merged Board.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Kolby Reddish, Chief Legal Counsel, at (208) 577-2491. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before scheduled meeting.

DATED this 6th day of August, 2025.

Kolby K. Reddish
Chief Legal Counsel
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2519
Email: kolby.reddish@dopl.idaho.gov

IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION

31.27.01 – RULES GOVERNING POLE ATTACHMENTS

DOCKET NO. 31-2701-2501 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment and input prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 61-538, Idaho Code.

MEETING SCHEDULE: A negotiated rulemaking meeting will be held as follows:

Tuesday, August 12, 2025 10:00 a.m. MT
In person: Idaho Public Utilities Commission 11331 W. Chinden Blvd., Bldg. 8, Ste 201-A Boise, ID 83714

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting in person or through the Webex platform. To participate online, please visit idahogov.webex.com and enter meeting number 2634 083 6009 (no spaces between numbers). Then, click on the green “Join” button. At the next window, please enter this password: Rulemaking. Next, please click on the green “Join Webinar” button. At the next window, please enter your name and e-mail address, and then click on the “Next” button. Then click on the green “Join Webinar” button.

To participate over the phone, please call 1-415-655-0001 and enter meeting number 2634 083 6009 when prompted.

For those who cannot participate by attending the meeting, written comments may be submitted to the Idaho Public Utilities Commission by email at secretary@puc.idaho.gov. Written comments may also be submitted using the Idaho Public Utilities Commission’s Case Comment Form: <https://puc.idaho.gov/Form/CaseComment>. Case No. RUL-U-25-01.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

House Bill 180a sets forth a process for the Idaho Public Utilities Commission to convene a negotiated rulemaking process between utilities and broadband providers to determine a process for pole-attachment permits.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Stephen Goodson at (208) 334-0323 or the Commission Secretary at (208) 334-0300. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Public Utilities Commission web site at the following web address: www.puc.idaho.gov.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 3rd day of July, 2025.

Monica Barrios-Sanchez, Commission Secretary
Idaho Public Utilities Commission
11331 W. Chinden Blvd., Bldg. 8, Ste 201-A
Boise, ID 83714
P.O. Box 83720
(208) 334-0323 Office
(208) 334-4045 Fax

IDAPA 52 – IDAHO STATE LOTTERY
52.01.03 – RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY
DOCKET NO. 52-0103-2501 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-7408(1), 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 August 20, 2025.

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:

In accordance with Governor Brad Little’s [Executive Order 2020-01: Zero-Based Regulation](#) (ZBR), the Idaho Lottery will reduce regulatory burdens by removing costly, inefficient, or outdated regulations.

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

No fees have been changed or added.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no expected fiscal impact, positive or negative from these changes.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2025 Idaho Administrative Bulletin, [Vol.25-5 pg. 78](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Director Andrew Arulanandam, listed below.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2025.

DATED this 18th day of June, 2025.

Andrew Arulanandam, Director
Idaho State Lottery
1199 Shoreline Lane, Suite 100
Boise, ID 83702
Ph. 208.780.2500
aarulanandam@lottery.idaho.gov
www.idaholottery.com

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 52-0103-2501
(ZBR Chapter Rewrite.)

52.01.03 – RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

SUBCHAPTER A – INTRODUCTORY PROVISIONS AND DEFINITIONS

000. LEGAL AUTHORITY.

Sections 67-7401, 67-7404, 67-7406, 67-7408, and 67-7411, Idaho Code. (7-1-25)

001. SCOPE.

The rules govern operations of the ~~Idaho State~~ Lottery. The rules also set forth which bingo games and raffles are legal in the state of Idaho and to bring all legal bingo games and raffles in the state of Idaho under the control of the Lottery. (7-1-25)()

002. -- 009. (RESERVED)

010. DEFINITIONS.

~~As used throughout these rules these terms have the following definitions:~~ (3-25-22)

01. Commissioner. A member of the Idaho State Lottery Commission. (3-25-22)

~~**02. Director.** The Director of the State Lottery appointed and confirmed according to Section 67-7407, Idaho Code.~~ (3-25-22)

~~**03. Lottery.** The Idaho State Lottery created by Section 67-7402, Idaho Code, and, as context requires, the Lottery Commission and the Lottery's officers and employees.~~ (3-25-22)

011. -- 099. (RESERVED)

SUBCHAPTER B – OPERATIONS OF THE IDAHO STATE LOTTERY

100. DEFINITIONS.

These rules apply to Subchapter B only: (3-25-22)

01. Benefit. Any thing, property or money, favorable consideration or advantage, profit, privileges, gain or interest to which a person is not otherwise entitled. (3-25-22)

02. Certificate. The signed document issued by the Director authorizing a retailer to sell Lottery products. (3-25-22)

03. Control Person. A person in a position of authority that is primarily defined according to organizational type. The following are control persons: (3-25-22)

a. In a privately-owned corporation, the officers, directors, and stockholders of the ultimate parent company who own five percent (5%) or more of the company's stock and, if applicable, any of its subsidiaries. (3-25-22)()

b. In a publicly-owned corporation, the officers and directors of the ultimate parent company and each of its subsidiaries. Additionally, stockholders who own five percent (5%) or more of the corporation's stock are control persons. (3-25-22)()

- c. In a trust, the trustee and all persons entitled to receive income or benefit from the trust. (3-25-22)
- d. In an association, the members, officers, and directors. (3-25-22)
- e. In a partnership or joint venture, the general partners, limited partners, or joint venturers. (3-25-22)
- f. A member of the immediate family of any of who is a control person under Paragraphs ~~010.06.a. through 06.e.~~ 100.03.a. through 100.03.e. of this definition. ~~(3-25-22)()~~
- g. A subcontractor of a vendor if the subcontractor performs more than half of the vendor's contract with the Lottery. (3-25-22)
- 04. Executive Staff.** The director of Lottery Security Division and the deputy directors appointed by the Director. (3-25-22)
- ~~05. Expenses.~~ See definition in Section 67-7404, Idaho Code. ~~(3-25-22)~~
- ~~06. Fiscal Year.~~ The Lottery's fiscal year of twelve (12) months beginning on July 1 and ending on June 30. ~~(3-25-22)~~
- ~~075.~~ **Gift.** A transfer, exchange or delivery of anything, property or money, of any value whatsoever, with or without an expectation by the giver to receive anything, tangible or intangible, in return. (3-25-22)
- ~~086.~~ **Immediate Family.** A natural person's spouse, children, brother, sister, or parent by blood, marriage, or adoption who resides as a member of the same household in the principal place of residence of any commissioner, Lottery contractor, vendor, retailer, member, or Lottery employee ~~of the State Lottery.~~ ~~(3-25-22)()~~
- ~~097.~~ **Instant Game.** A game in which a ticket is purchased and upon removal of a latex or similar secure covering on the front of the ticket, the ticket bearer determines his or her winnings, if any. (3-25-22)
- ~~108.~~ **Invitation to Bid.** The solicitation of competitive offers in which specifications, price, and delivery (or project completion) will be the predominant award criteria. (3-25-22)
- ~~1109.~~ **Lottery Contract** ~~or Contract.~~ Any contract entered into either by the Lottery or for the Lottery by another public agency, for the purchase, lease, or sale of goods or services. ~~(3-25-22)()~~
- ~~12.~~ **Lottery Contractor** ~~or Contractor.~~ See definition in Section 67-7404, Idaho Code. ~~(3-25-22)~~
- ~~130.~~ **Lottery Employee** ~~or Employee.~~ Any person who works full- or part-time for the Lottery. ~~(3-25-22)()~~
- ~~141.~~ **Lottery Game** ~~or Game.~~ Any procedure authorized by the Commission whereby prizes are distributed among persons who have paid, or unconditionally agreed to pay, for tickets or shares which provide the opportunity to win such prizes. Lottery game themes must be approved by the Commission, be consonant with the dignity of the state. ~~(3-25-22)()~~
- ~~15.~~ **Lottery Game Retailer** ~~or Retailer.~~ See definition in Section 67-7404, Idaho Code. ~~(3-25-22)~~
- ~~16.~~ **Lottery Revenue.** See definition in Section 67-7404, Idaho Code. ~~(3-25-22)~~
- ~~17.~~ **Lottery Vendor** ~~or Vendor.~~ See definition in Section 67-7404, Idaho Code. ~~(3-25-22)~~
- ~~18.~~ **Low, Medium and High Tier Claims.** See definition in Section 67-7404, Idaho Code. ~~(3-25-22)~~
- ~~19.~~ **Major Procurement.** See definition in Section 67-7404, Idaho Code. ~~(3-25-22)~~

- ~~20. Net Income. See definition in Section 67-7404, Idaho Code. (3-25-22)~~
- ~~21. On-Line Draw System. The Lottery's on-line draw computer wagering system consisting consists of ticket issuing terminals, central processing equipment, and a communications network. (3-25-22)()~~
- ~~22. Play Symbols. The numbers or symbols appearing in the designated area under the removable covering on the front of the ticket. (3-25-22)~~
- ~~23. Prize. Any award, financial or otherwise, awarded by the Director for successfully playing a Lottery game. (3-25-22)~~
- ~~24. Redemption Value. See definition in Section 67-7404, Idaho Code. (3-25-22)~~
- ~~25. Request for Proposal. The solicitation of competitive proposals, or offers, to be used in part as a basis for making an acquisition, or entering into a contract, when specification and price will not necessarily be the predominant award criteria. (3-25-22)~~
- ~~26. Retailer Validation Code. The symbols found under the removable rub-off covering over the play symbols on the front of each ticket. (3-25-22)~~
- ~~27. Sensitive Procurement. Those procurement actions or contracts, other than "major procurements," that may either directly or indirectly affect the integrity, security, honesty, and fairness of the operation and administration of the Lottery. A typical example of this class of procurement is the acquisition of security systems that protect the security and integrity of the Lottery. (3-25-22)~~
- ~~28. Share. See definition in Section 67-7404, Idaho Code. (3-25-22)~~
- ~~29. State Lottery Act of 1988 or Act. The Act approved by the legislature creating the Lottery, which became effective November 23, 1988, as amended, which is codified at Title 67, Chapter 74, Idaho Code. (3-25-22)()~~
- ~~30. Subcontractor. Any third party not in the employment of a contractor, who is performing all or part of the work in the contractor's agreement with the Lottery under a separate contract with the contractor. The term "subcontractor" means subcontractor of any tier. (3-25-22)~~
- ~~31. Temporary Retailer. A retailer under contract with the Lottery for a temporary or seasonal period. A temporary contract may be subject to special conditions or limitations that the Director deems prudent. These limitations or conditions may include, but are not limited to: (3-25-22)~~
- ~~a. Length of ticket sale period; (3-25-22)~~
 - ~~b. Hours or days of sale; (3-25-22)~~
 - ~~c. Location of sale; (3-25-22)~~
 - ~~d. Specific persons who may sell Lottery tickets; (3-25-22)~~
 - ~~e. Specific sporting, charitable, social, or other special events where Lottery tickets may be sold. (3-25-22)~~
- ~~32. Provisional Retailer. A retailer granted a provisional certificate in accordance with these rules. A provisional certificate may contain some or all of the restrictions of a temporary retailer and additional restrictions deemed necessary by the Director. (3-25-22)~~
- ~~33. Ticket. See definition in Section 67-7404, Idaho Code. (3-25-22)~~

~~34~~**20.** **Ticket Bearer.** The person who has signed the ticket or has possession of the unsigned ticket. (3-25-22)

~~21.~~ **Ticket A Bearer Instrument.** A ticket is a bearer instrument until signed in the space designated on the ticket for signature. The person who signs the ticket is considered the owner of the ticket. Payment of any prize may be made to a person in possession of an unsigned ticket. All liability of the state, the Commission, the Lottery, the Director, and Lottery employees terminates upon payment. ()

~~35~~**22.** **Ticket Validation Number or Validation Number.** The multidigit number found on the front of the ticket. It is either uncovered or found underneath the “Do Not Remove” area on the ticket or any stub. (3-25-22)

~~36~~**23.** **Total Annual Revenue or Annual Revenue.** The sum of all of the Lottery’s proceeds and accrued income that is characterized as a reduction or recovery of expenses. (3-25-22)

~~37~~**24.** **Unclaimed Prize.** Any award, financial or otherwise, of more than twenty-five dollars (\$25) for which there is physical, tangible evidence of eligibility but for which the prize has not been paid within one (1) year. (3-25-22)

~~38.~~ **Value.** See definition in Section 67-7404, Idaho Code. (3-25-22)

101. OPERATING PROVISIONS.

~~01.~~ **Purpose.** These rules are established by the Commission to define and regulate the operation and administration of the Lottery and the Commission. (3-25-22)

~~02~~**1.** **Lottery Commission.** The Commission is charged with the authority and duty to regulate Lottery activities in the state of Idaho, consistent with the Idaho Constitution and the enabling legislation. The headquarters of the Commission and of the Lottery is in Boise. (3-25-22)

~~03.~~ **Powers and Duties of the Commission.** (3-25-22)

~~a.~~ **Rule Promulgation.** The Commission promulgates rules and conditions under which the statewide Lottery will be conducted. Subjects covered in such rules include but need not be limited to: (3-25-22)

~~i.~~ The types of Lottery games to be conducted; (3-25-22)

~~ii.~~ The prices of tickets in the Lottery; (3-25-22)

~~iii.~~ In general the numbers and sizes of prize disbursements, the manner and frequency of prize drawings, and the manner in which payment will be made to holders of winning tickets; (3-25-22)

~~iv.~~ The locations at which Lottery tickets may be sold, the manner in which they are to be sold, and contracting with Lottery vendors, retailers and contractors; (3-25-22)

~~v.~~ The manner in which Lottery sales revenues are to be collected; (3-25-22)

~~vi.~~ The amount of compensation to be paid to retailers; (3-25-22)

~~vii.~~ Other areas relating to the efficient and economical operation and administration of a statewide Lottery consonant with the public interest. (3-25-22)

~~b.~~ **Delegation to Director.** In addition to those duties assigned to the Director in the Act, the Commission may, insofar as is consistent with the Idaho Constitution and the Act, delegate the performance of executive or administrative functions to the Director. (3-25-22)

~~04~~**2.** **Time and Place of Meetings.** (3-25-22)

a. Regular meetings of the Commission will be held at least quarterly; ~~the date, time, and place will be set by the Commission and, if possible, with at least two (2) weeks' advance notice.~~ The Commission may meet with the Director to make recommendations and set policy, to approve or reject reports of the Director, to adopt rules, and to transact other business. (3-25-22)()

b. Additional meetings necessary to discharge the business of the Commission may be called from time to time by the chairman or by a quorum of the Commission. (3-25-22)

~~05. Open Meeting Law. All meetings of the Commission will be held in accordance with Idaho's Open Meeting Law, Sections 67-2340, et seq., Idaho Code, and in accordance with Section 67-7442, Idaho Code. All meetings of the Commission are open to the public, except when executive session is allowed for part of the meeting under the Open Meeting Law. (3-25-22)~~

~~063. Director. The Director is responsible for the operation of the Lottery and for managing the affairs of the Commission. A Deputy Director designated by the Director may act for the Director in the absence of the Director. If there is a vacancy in the office of Director, the Commission will designate the Deputy Director as Interim Director until the vacancy can be filled. (3-25-22)~~

~~074. Powers and Duties of the Director. (3-25-22)~~

~~a. The Director has the authority to implement and execute procedures that he may deem appropriate for the efficient administration of the Lottery. The Director may also recommend rules governing the establishment, administration, and operation of the Lottery to the Commission for its approval; (3-25-22)()~~

~~b. The Director is authorized to employ sufficient staff as may be required to carry out the functions of the Commission and the Lottery; (3-25-22)~~

~~c. The Director may contract with retailers for the sale of Lottery games and will suspend or terminate any contract in accordance with the provisions of the Act and the rules of the Commission; (3-25-22)~~

~~d. The Director will continuously study and investigate all matters pertinent to the efficient operation of the Lottery; and (3-25-22)~~

~~e. The Director will maintain full and complete records of the operation of the Lottery and report on at least a monthly basis to the Commission and to the governor on the status of the Lottery. (3-25-22)~~

~~f. In addition to those duties assigned to the Director in the State Lottery Act of 1988, the Commission may, insofar as is consistent with the Idaho Constitution and the State Lottery Act of 1988, delegate the performance of executive or administrative functions to the Director. The duties and responsibilities of the Director that are not otherwise specified in Idaho law or the rules adopted by the Commission may be maintained as a policy of the Commission for the purpose of establishing a working relationship between the Director and the Commission. (3-25-22)()~~

~~08. Lottery Budgets and Financial Statements. The Director must: (3-25-22)~~

~~a. Submit quarterly financial statements to the Commission, the governor, the state treasurer, and the legislature. The quarterly financial statements must be prepared in accordance with generally accepted accounting principles and include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. The quarterly financial statements must be provided within forty five (45) days of the last day of each quarter. (3-25-22)~~

~~b. Submit annual financial statements to the Commission, the governor, the state treasurer, and each member of the legislature. The annual financial statements must be prepared in accordance with generally accepted accounting principles and must include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. The annual financial statements must be examined by the state controller or a firm of independent certified public accountants in accordance with generally accepted auditing standards and must be provided within ninety (90) days of the last day of the Lottery's fiscal year. (3-25-22)~~

~~09.~~ **Contingency Reserve.** (3-25-22)

~~a.~~ The Director may, with the approval of the Commission, allot from moneys available to pay administrative expenses an amount to be transferred to a contingency reserve established by the Commission. The money allotted can include amounts retained to fund specific future expenses or can be undesignated as to purpose. (3-25-22)

~~b.~~ When the Commission approves a contingency reserve, it must determine the amount necessary for a reasonable contingency reserve. (3-25-22)

~~c.~~ Upon approval of the Commission, money in the contingency reserve may be authorized to be used for specific purposes of the Lottery or to be used to fund general administrative expenses if there is a revenue shortfall. Expenses funded from the contingency reserve cannot be included with other administrative expenses for purposes of determining compliance with current administrative expenditure limitations. (3-25-22)

~~105.~~ **Special Drawings.** (3-25-22)

a. The Director may authorize special drawings to award prizes, such as vacation trips, automobiles, or other tangible items in addition to, or in lieu of, cash awards. The Director will determine the nature and number of awards for each special drawing. Special drawings for promotional awards may be held independently of the Lottery's regular prize drawings or may be incorporated therein. The promotional drawings may be cosponsored and conducted in conjunction with Lottery retailers or other independent businesses. In view of the temporary nature and indeterminate frequency of the promotional awards drawings, a press announcement and normal advertising media will be used to inform the public of the rules and prizes for each special drawing. (3-25-22)

b. Notwithstanding the provisions of Paragraph ~~100.11.a.~~ 101.05.a. of this rule, the Director may, at his discretion, award in-lieu equivalent cash awards to the winners of tangible items, in those instances where the Director deems it appropriate. The value of noncash items will be estimated by using either the cost of the item or its fair-market value. (3-25-22)()

~~106.~~ **Retail Drawings.** The Director and his designee may authorize retailers to conduct drawings using non-winning Lottery tickets in conjunction with a particular Lottery game. Such authorization will be in writing, specify the type of drawing to be conducted, and forth the methodology to be used in conducting the drawing. (3-25-22)

~~1207.~~ **Retail Ticket Price Discounts.** (3-25-22)

a. Notwithstanding the price adopted for the retail sale of a ticket in the rules for a specific Lottery game, the Commission may offer discounts for the retail sale of Lottery tickets. (3-25-22)

i. Discounts for the retail sale of Lottery tickets may be offered to the public through the use of coupons approved by the Director or by any other method approved by the Director. (3-25-22)

ii. Coupons that offer a discount on the retail price of Lottery tickets will be distributed using methods designed to reach the public. (3-25-22)

b. Rules for a promotion conducted by the Lottery using retail ticket discounts will be published by the Director and made available at the Lottery's offices and retailer locations. (3-25-22)

~~1308.~~ **Allocation of Revenues for Prizes.** (3-25-22)

a. Purpose: The primary objective of the Lottery is to produce the maximum amount of net revenues to benefit the public purpose of raising revenue consonant with the dignity of the state and the sensibilities of its citizens. In accomplishing this objective, at least forty-five percent (45%) of the total annual revenues will be returned in the form of prizes. The Lottery may design and conduct Lottery games that return more than forty-five percent (45%) of the revenues received from the sale of tickets in the form of prizes as an incentive to increase the

total amount of Lottery game sales over the level of sales that otherwise would have been reasonably expected using a lower prize percentage. Lottery ~~G~~ games may also be authorized that return less than forty-five percent (45%) of that Lottery game's revenues so long as forty-five percent (45%) of the total annual revenues is returned as prizes.

(3-25-22)()

~~b. Prize payments: In addition to cash prize payments, money set aside by the Lottery and restricted for the payment of prizes is considered in satisfying the requirement of returning at least forty-five percent (45%) of total revenues to the public in the form of prizes.~~

(3-25-22)

~~eb. Averaging game prize payments: Notwithstanding the prize structure adopted for a Lottery game, the amount of revenue returned for prizes among all the Lottery games offered by the Lottery may be reallocated so long as at least forty-five percent (45%) of the total revenue earned from all Lottery games is returned to the public in the form of prizes on an annual basis. The Director will report to the Commission on any reallocations made pursuant to Section ~~100~~ 101 of these rules.~~

(3-25-22)()

~~1409.~~ 1409. Ownership of Lottery Tickets.

(3-25-22)

a. Except for tickets claimed jointly in accordance with the provisions of Paragraph ~~100.14.d.~~ 101.09.d. of this rule, until a name is printed or placed upon a Lottery ticket in the designated area, the ticket is owned by the bearer, who is entitled to any prize attributable to the ticket.

(3-25-22)()

b. If more than one (1) name appears on a ticket, the ticket must be claimed in accordance with the joint ownership procedures listed in Paragraph ~~100.14.d.~~ 101.09.d. of this rule.

(3-25-22)()

c. Groups, family units, clubs, or other organizations may claim a winning ticket if the organization possesses a Federal Employer Identification Number (FEIN) issued by the Internal Revenue Service and that number is shown on the claim form.

(3-25-22)

d. If a ticket is claimed to be owned by two (2) or more people, the following steps will be taken for payment of the prize:

(3-25-22)

i. All people claiming ownership must complete and sign a claim form and declare their percentage of the prize prior to processing the claim. After the claim form is submitted to the Lottery, the percentage cannot be amended. The percentages claimed must add up to one hundred percent (100%) of the prize.

(3-25-22)

ii. At least one (1) of the people claiming ownership of the ticket must sign the ticket and also sign the claim form.

(3-25-22)

iii. The Lottery reserves the right to issue a single prize check instead of multiple prize checks to the owners of a ticket if the value of each individual prize check would be less than fifty dollars (\$50).

(3-25-22)

iv. Multiple winners of a Lottery prize will be paid only through the Boise Lottery office. Lottery retailers will not be required to pay more than one (1) winner of a single prize.

(3-25-22)

~~150.~~ 150. Claims.

(3-25-22)

~~a. Liability. By submitting a claim, the player agrees that the state, the Commission, the Lottery and all officials, officers, and employees of each are discharged from all further liability upon payment of the prize.~~

(3-25-22)

~~b. Publicity. By submitting a claim, the player also agrees that the Lottery may use the prize winner's name and photograph for publicity purposes.~~

(3-25-22)

~~e. Claim period. Prizes may be claimed for a period of one hundred eighty (180) days after the drawing in which the prize was won or from the last day tickets from the specific instant game were sold. Prizes won through an electronic terminal are payable in accordance with the Lottery's rules. If a claim is not made for the prize within the applicable period, the prize money may be added to future prize pools, to be used in addition to prize~~

~~allotments already allocated, except as provided in Section 67-7433, Idaho Code. (3-25-22)~~

~~d. Invalid tickets. If a ticket presented to the Lottery is invalid pursuant to the terms of these rules or the specific game rules, the ticket is not entitled to prize payment. (3-25-22)~~

~~e. Ticket a bearer instrument. A ticket is a bearer instrument until signed in the space designated on the ticket for signature. The person who signs the ticket is considered the owner of the ticket. Payment of any prize may be made to a person in possession of an unsigned ticket. All liability of the state, the Commission, the Lottery, the Director, and Lottery employees terminates upon payment. (3-25-22)~~

a. The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. ()

~~f. Time of prize payment. All prizes will be paid within a reasonable time after a claim is verified by the Lottery and a winner is determined. The date of the first installment payment of any prize to be paid in installment payments is the date the claim is validated and processed, unless a different date is specified for a particular Lottery game in these rules or in the specific Lottery game rules. Later installment payments will be made approximately weekly, monthly, or annually, from the date the claim is processed and validated in accordance with the type of prize won and the rules applicable to the prize. The Lottery may, at any time, delay any prize payment in order to review a change in circumstances concerning the prize awarded, the payee, or the claim. All delayed payments will be brought up to date immediately upon the Lottery's confirmation and continue to be paid on each original anniversary date thereafter. (3-25-22)()~~

~~g. Prizes payable for winner's life. If any prize is for the life of the winner, only an individual may claim and receive the prize for life. If a group, corporation, or other organization is the winner, the life of the winner is deemed to be twenty (20) years. (3-25-22)()~~

11. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho law. For purposes of this Subsection, the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in Section 68-803, Idaho Code. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule. ()

162. Prizes Payable After Death of Winner. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-25-22)

173. Disability of Prize Winner. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings that are or may become due to a person under a disability including, but not limited to, mental deficiency, or physical or mental incapacity. (3-25-22)

~~18. Stolen or Lost Tickets. The Lottery has no responsibility for paying prizes attributable to stolen or lost tickets. (3-25-22)~~

14. Payment of Prizes. The procedures for claiming prizes are as follows: ()

a. Prizes of less than six hundred dollars (\$600) may be claimed by one (1) of the following methods:

()

i. The claimant may present the winning ticket to any Lottery retailer. The retailer shall verify the claim and, if acceptable, make payment of the amount due the claimant. A retailer may pay prizes in cash or by business check, money order, no fee prize payment card, or any combination thereof. A retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of the retailer's contract. ()

ii. If the retailer cannot verify the claim, the claimant shall fill out a claim form and the retailer shall present the completed form and the disputed ticket to the Director. If the claim is validated, payment will be made to the claimant in cash, or by check or money order in the amount due. If the claim is not validated, the claim will be denied and the claimant will be promptly notified. ()

iii. The claimant may present the ticket to the Lottery office or complete a claim form and mail it with the ticket to the Idaho State Lottery (registered mail recommended). Claim forms may be obtained from any Lottery game retailer or from the Lottery. ()

b. To claim any prize of six hundred dollars (\$600) or more, the claimant shall either present the winning ticket to the Lottery office or complete a claim form and mail the completed form together with the winning ticket to the Idaho State Lottery (registered mail recommended). ()

c. Prizes of six hundred dollars (\$600) or more can be paid only from the Boise Lottery office. Upon validation by the Director, payment will be made by check or money order in the amount due, less any applicable federal income tax withholding. ()

d. Any ticket not passing all the validation checks is void and ineligible for any prize and will not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or ticket of equivalent sales price from any other current Lottery game). If a defective ticket is purchased, the only responsibility or liability of the Lottery is the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sale price from any other current Lottery game). ()

15. Discharge of All Liability Upon Payment. The state of Idaho, its agents, officers, employees, and representatives, the Lottery, its Director, agents, officers, Lottery employees and representatives, will be discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decision and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes are final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. ()

196. Effect of Lottery Game Rules. In purchasing a ticket the player agrees to comply with Title 67, Chapter 74, Idaho Code, these rules, the specific Lottery game rules, Lottery instructions and procedures, and the final decisions of the Lottery. The Lottery's decisions and judgments in respect to the determination of winning tickets or any other dispute arising from the payment or awarding of prizes will be final and binding upon all participants in the Lottery. If a dispute between the Lottery and a player occurs as to whether a ticket is a winning ticket and the prize is not paid, the Lottery may, solely at the Director's option, replace the ticket with an unplayed ticket of an equivalent price from any game or refund the price of the ticket. This will be the sole and exclusive remedy of the player. (3-25-22)()

20. Disputed Prizes. If there is a dispute, or it appears that there may a dispute concerning payment or ownership of any prize or any other legal issue involving the prize, the Lottery may refrain from making payment of the prize pending a final determination by the Lottery or by a court of competent jurisdiction as to the proper payment of the prize. (3-25-22)

~~24~~**17.** **Sale of Lottery Tickets.** Lottery tickets may be sold for cash, check, money order, credit card, electronic funds transfer, or debit card. (3-25-22)

102. CONFLICT OF INTEREST POLICY.

01. Persons Subject to Conflict of Interest Policy. Every Commissioner, the Director, every Deputy Director, and every other Lottery officer and Lottery employee is considered a person subject to this rule on conflict of interest. If a statutory provision, rule, or policy applicable to the Lottery conflicts with Section 67-7443, Idaho Code, the more stringent provision applies. (~~3-25-22~~)()

02. Statements For Economic Interest. Every person listed in Subsection ~~110.01~~ 102.01 of this rule, is prohibited from directly or indirectly, individually, or as a member of a partnership, or as a shareholder of a corporation, or as a participant in a joint venture or association with any other person, having an interest in dealing in a Lottery game or in the ownership or leasing of property used by or for a Lottery game. (~~3-25-22~~)()

03. Persons Ineligible For Prizes. Except as provided in Section 67-7440, Idaho Code, the following persons are disqualified from purchasing a Lottery ticket or share, and from receiving a Lottery prize: (3-25-22)

a. Every person listed in Subsection ~~110.01~~ 102.01 of this rule; (~~3-25-22~~)()

b. Any officer, director, or employee of any vendor of Lottery tickets or manufacturer of equipment used to determine winners in computerized Lottery games, and any of their subcontractors who may affect the security, integrity, or honesty of the Lottery; (3-25-22)

c. Any Lottery contractor or consultant under agreement with the Lottery to review the Lottery's security procedures, and any other contractor or consultant that the Director deems ineligible if the Director reasonably determines that the security, honesty, and integrity of the Lottery may be adversely affected; (3-25-22)

d. An immediate family member of any individual described in Paragraphs ~~110.03.a., 110.03.b., or 110.03.c.~~ 102.03.a. through 102.03.c. of this rule who is a member of the same household. (~~3-25-22~~)()

04. Gift Prohibitions. (3-25-22)

a. Except as provided in Paragraph ~~110.03.b.~~ 102.03.b. of this rule, every person listed in Subsection ~~110.01~~ 102.01 of this rule, including members of their immediate family, are prohibited from soliciting or receiving, directly or indirectly, a gift in excess of fifty dollars (\$50) from any person who might reasonably be expected to receive a benefit from the Lottery. (~~3-25-22~~)()

~~**b.** In appearances before civic groups and other organizations it is permissible to accept a meal if it is offered and it is the established practice of that group or organization. (3-25-22)~~

05. Persons Prohibited From Providing Services. The following individuals and entities are prohibited from being a Lottery game retailer, Lottery vendor, or Lottery contractor, and shall not provide audits or study services as specified by Title 67, Chapter 74, Idaho Code: (3-25-22)

a. Every person listed in Subsection ~~110.01~~ 102.01 of this rule; (~~3-25-22~~)()

b. A member of the immediate family who is a member of the same household of any person listed in Subsection ~~110.01~~ 102.01 of this rule; (~~3-25-22~~)()

06. Outside Activities Restricted. (3-25-22)

a. The Director, all Deputy Directors, and all full-time Lottery officers and Lottery employees are required to render full-time service to the duties of their positions. Part-time, temporary, or seasonal Lottery employees are required to render service to the extent of their employment with the Lottery and are prohibited from accepting other employment that may conflict with the integrity of the Lottery. (~~3-25-22~~)()

b. Except when assisting another state lottery, no Commissioner, Director, Deputy Director or other Lottery officer or Lottery employee may provide consulting or contractual services, or accept an honorarium related to his State Lottery expertise. (3-25-22)()

c. When assisting another state lottery, it is permissible for the other state to reimburse normal travel costs to the individual providing the service, but no honorarium or pay to the individual will be accepted. If the other state has a policy of paying for the time of another state's employee while providing assistance, the payment will be made to the State Lottery. (3-25-22)

d. Nothing contained in Paragraphs ~~110.06.a. through 110.06.e.~~ 102.06.a. through 102.06.c. of this rule precludes the Lottery from negotiating Lottery contracts in which the vendor to the Lottery must bear the expense of Lottery personnel making on-site inspections of the vendor's products or manufacturing facility, auditing the vendor, or other legitimate business reasons for traveling to the vendor's place of business or site of the vendor's records, and person listed in Subsection ~~110.01~~ 102.01 of this rule may engage in travel at the vendor's expense for those legitimate business purposes. Nothing contained in Paragraphs ~~110.06.a. through 110.06.e.~~ 102.06.a. through 102.06.c. of this rule prevents a Commissioner, Director, Deputy Director or other Lottery officer or Lottery employee from participating in and traveling to educational or industry related programs. Actual expenses incurred may be reimbursed by a sponsoring entity if the integrity of the State Lottery is not adversely impacted. (3-25-22)()

07. Conduct of Commission Business. Business transactions conducted by the Commission, the Director, Deputy Directors, and all other Lottery officers and Lottery employees with Lottery vendors should be conducted in the Lottery's offices to the maximum extent possible. (3-25-22)()

08. Personal Conduct. Personal conduct that is illegal or generally considered improper or brings discredit to the Lottery may be subject to appropriate disciplinary action by the Director. (3-25-22)

09. Use of Lottery Property. Every person listed in Subsection ~~110.01~~ 102.01 of this rule is prohibited from using any Lottery vehicle or other Lottery property for personal use, except that telephones, computers, etc., may be used for personal use in the manner ordinarily accepted in an office setting when that use does not result in additional expense to the Lottery and when that use does not contravene state policy. (3-25-22)()

10. Signature of Conflict Policy Required. Every person listed in Subsection ~~110.01~~ 102.01 of this rule is required to sign the following conflict of interest policy as a condition of employment. "I have read and understand the pertinent Sections of Idaho Constitution Article 7, Section 10, and Title 59, Chapter 7, Idaho Code, and these conflict of interest policies."

Signature
Typed Name
Date

(3-25-22)()

103. -- 199. (RESERVED)

200. LOTTERY CONTRACTING RULES.

01. Classification of Lottery Contracts. (3-25-22)

a. Lottery contracts for the acquisition of materials, supplies, services and personal and professional services are classified according to relative sensitivity, which in turn determines the level of review, procurement method and the extent of disclosure required by Lottery vendors or if no disclosure is required as in the case of Lottery contractors. The three (3) levels of procurement are as follows: (3-25-22)

i. General procurements: These procurements are the least sensitive and are for materials, supplies, equipment, services and personal and professional services required to satisfy the day-to-day administrative, ministerial and operating needs of the Lottery. Disclosure filings by Lottery vendors are not normally required for this class of procurements. Lottery contractors may supply general procurement items. The Lottery may use formal

invitations to bid, informal competitive quotes and requests for proposals to solicit Lottery contracts for these acquisitions, as may be determined by the Director to be the most appropriate process for a specific acquisition.

(3-25-22)()

ii. Sensitive procurements: These procurements are of intermediate sensitivity and are for materials, supplies, equipment, services and personal and professional services which may have direct or indirect impact upon the security, credibility and integrity of the Lottery. Also included are special studies and services required by statute (demographic, communications and performance studies). The normal procedure for acquiring the materials and services is by request for proposal; however, the Director may authorize the use of competitive quotes when the cost of the acquisition is less than fifteen thousand dollars (\$15,000). The Director may prescribe special disclosure requirements governing Lottery contractors or vendors for this class of Lottery contracts.

(3-25-22)()

iii. Major procurements: This class is the most sensitive of Lottery contracts. The State Lottery Act of 1988 requires these procurements to be let by the Commission and the filing of comprehensive disclosure statements by Lottery vendors.

(3-25-22)()

b. The procedures for announcing or soliciting various classes of Lottery contracts outlined in Paragraph 200.01.a. of this rule are intended to be advisory only and do not limit the Commission or the Director in the selection of the most appropriate process to acquire a given product or service.

(3-25-22)

02. General Policy.

(3-25-22)

a. In all decisions affecting the Lottery, the Commission and Director are specifically directed by statute to take into consideration the particularly sensitive nature of the Lottery and to act in a manner to promote and insure ensure the integrity, security, honesty and fairness of the Lottery. Additionally, the Director, in awarding Lottery contracts in response to solicitations for proposals, must award the Lottery contracts to the responsible contractor or vendor submitting the lowest and best proposal that provides maximum benefits to the state in relation to cost in the areas of security, competence, experience, timely performance, and maximization of net revenues to benefit the public purpose of the Lottery. Consistent with these statutory directives, it is the policy of the Lottery, to the extent possible, to conduct its contracting affairs in an open, competitive manner. However, the security and integrity of the Lottery are fundamental and overriding considerations in all decisions.

(3-25-22)()

b. Although the Lottery is exempt from the provisions of Section 67-5715, Idaho Code, it is the policy of the Lottery to conduct its contracting affairs generally in accordance with the state's competitive bidding principles contained in Section 67-5715 et seq., Idaho Code, and consistent with the specific directives contained in Paragraph 200.02.a. of this rule. In implementing this policy, the Lottery reserves the right to use the procedures developed by the Department of Administration as guidelines to govern its procurement actions. Notwithstanding this reservation, the Lottery also reserves the right to use alternate contracting and purchasing practices that take account of market realities and modern or innovative contracting and purchasing methods that are also consistent with the public policy of encouraging competition. These methods may include, but are not limited to, specialized vendor prequalifications, competitive negotiations, performance incentives and disincentives, life cycle costing and solicitations emphasizing the request for proposal process.

(3-25-22)

c. When the Lottery uses a Request for Proposal (RFP) for a planned acquisition, the major considerations in determining the Lottery contract award will be the quality of the product or service, the likelihood of timely performance, and price. Qualitative factors normally address issues like the Vendor's demonstrated experience in performing comparable projects, performance credibility, availability of qualified personnel and equipment, and other special factors as may apply to a particular Lottery contract. The RFP will normally specify the criteria that will be used in the evaluation of offers and the award of the Lottery contract.

(3-25-22)()

d. Because of the specialized character of Lottery contracts, the Lottery will not normally advertise bid proposals. Rather, the Lottery will circulate bid and proposal requests for materials, equipment and services to vendors known to specialize in the required procurement or to vendors that the Lottery may reasonably expect to have an interest in providing such services. The Lottery will develop its mailing lists as the service need arises needs arise.

(3-25-22)()

e. The Director may prepare standard terms and conditions to govern the acquisition of materials,

supplies and services by the State Lottery. To the extent possible, the standard terms and conditions should be as uniform as possible with the standard terms and conditions governing contracts entered into by other state agencies. (3-25-22)

f. All major departures from the state contracting guidelines referred to in Paragraph 200.02.b. of this rule will be approved by the Commission. If there is a conflict between the state guidelines and the Lottery's adopted rules, the Lottery's rules take precedence. (3-25-22)

03. Delegation of Purchasing Authority. (3-25-22)

a. Authority is granted to the Director to initiate all purchase actions and enter into and execute Lottery contracts for materials, supplies and services, on behalf of the Commission and the Lottery, except as follows: (3-25-22)()

i. General Lottery contracts having an estimated one-time or annual cost in excess of fifty thousand dollars (\$50,000); (3-25-22)()

ii. Lottery ~~C~~contracts defined as Sensitive Procurements having a one-time or annual cost of more than fifty thousand dollars (\$50,000); (3-25-22)()

iii. Lottery ~~C~~contracts defined as Major Procurements; (3-25-22)()

iv. All personal service Lottery contracts other than major or sensitive procurements having a one-time or annual cost in excess of fifteen thousand dollars (\$15,000); and (3-25-22)()

v. Procurement actions which are executed in a manner other than as provided in the contract exemption guidelines. (3-25-22)

b. Notwithstanding the provisions of Subparagraph 200.03.a.i. of this rule, the Commission, having once approved a planned procurement action involving a general Lottery contract acquisition, grants authority to the Director to execute a Lottery contract or contracts for the purchase or service without further action by the Commission. (3-25-22)()

c. The Commission, having once approved a particular Lottery contract, delegates authority to the Director to make all disbursements and payments as provided in the Lottery contract, without further, specific approval action by the Commission. (3-25-22)()

d. The Commission grants authority to the Director to enter into emergency Lottery contracts when immediate and decisive action is required to protect the security, credibility or integrity of the Lottery or a Lottery game. All emergency Lottery contracts let by the Director in which the cost exceeds the delegated authority contained in Paragraph 200.03.a. of this rule, must be reported to the Commission within five (5) days of the Lottery contract award date, or at the next scheduled Commission meeting, whichever is sooner. Such procurement actions may be taken without competitive bid. The dollar value of a Lottery contract awarded by the Director under the provisions of this section may not exceed fifty thousand dollars (\$50,000). Any emergency Lottery contract for a major procurement in which the cost exceeds fifty thousand dollars (\$50,000), if not acted upon at a regularly scheduled Commission meeting, is subject to Commission approval by telephonic or electronic vote. (3-25-22)()

04. State Central Services Agenda. As provided in Section 67-7408, Idaho Code, the Lottery may contract with other state agencies for the performance of contracting responsibilities that may be required by the Lottery. Those services may include, but are not limited to, the acquisition of Fidelity and Faithful Performance Bonds covering the Commissioners, officers, and employees of the Lottery; bonding of retailers, annuity contracts; general equipment and supplies; equipment financing agreements; and disposal of surplus Lottery property. The Lottery is bound by all statutes and rules governing the actions of the state agency when the Lottery uses such services. (3-25-22)

05. Idaho Preference. (3-25-22)

a. In all Lottery contracts, the Lottery will prefer goods or services that have been manufactured or produced in this state if price, fitness, availability and quality are otherwise equal. (3-25-22)()

b. Where a Lottery contract is awarded to a foreign contractor and the Lottery contract price exceeds ten thousand dollars (\$10,000), the contractor must promptly report to the Idaho Tax Commission (ITC) on forms to be provided by ITC the total Lottery contract price, terms of payment, length of Lottery contract and such other information as the ITC may require before final payment can be received on the Lottery contract. The Lottery must satisfy itself that the requirements of this Paragraph have been complied with before it issues a final payment on a Lottery contract. For the purposes of this Paragraph, a foreign contractor is one who is not domiciled in or registered to do business in Idaho. (3-25-22)()

06. Equal Opportunity/Affirmative Action Contracts. The Lottery is an equal opportunity employer and also participates in any on-going state affirmative action programs. (3-25-22)

07. Personal Services Contract. (3-25-22)

a. Contracts between the Lottery and persons or firms such as advertising agencies, security consultants, auditors, other consultants required to conduct or prepare special studies and reports and other personal services contracts that may be required to fulfill the Lottery's responsibilities, will be awarded as outlined in this Subsection. The award of Lottery contracts will be either direct, informal or formal depending upon the sensitivity and estimated dollar value of the Lottery contract. In awarding personal services contracts, the Lottery will consider the contractor's qualifications in similar areas of demonstrated competency, availability, experience in successfully performing comparable projects, availability of qualified personnel, likelihood of timely performance, history of cost containment, compensation requirements and other special factors that may apply to a particular Lottery contract. (3-25-22)()

b. Direct Award Procedures. (3-25-22)

i. Any personal services contract having an estimated one-time or annual value of ten thousand dollars (\$10,000) or less may be awarded directly by the Director if the Director believes reasonable steps have been taken to obtain competitive quotes, if feasible, and the award will not negatively affect the security, credibility or integrity of the Lottery. (3-25-22)

ii. The Director, with the approval of the Commission, may directly award personal services contracts in any appropriate or reasonable amount, without competitive solicitations, when the project consists of work that has been substantially described, planned or otherwise studied in an earlier Lottery contract and the new Lottery contract would be a continuation of the earlier project, provided that the earlier Lottery contract was awarded by a formal selection procedure. In awarding Lottery contracts under this provision the Commission and Director will take into account the effects of that action on the security, credibility and integrity of the Lottery and further ensure that the Lottery contract awards will not encourage favoritism or substantially diminish competition and will result in substantial cost savings to the Lottery. (3-25-22)()

iii. The Director, with the approval of the Commission, may directly award personal service contracts without competitive solicitation when an emergency or other condition exists that requires prompt and decisive action. The Commission and Director may exercise the provisions of this Paragraph only when immediate action is required to correct a situation that would threaten integrity, security, honesty, and fairness in the operation and administration of the Lottery or the objective of raising net revenues for the benefit of the public purpose described in the State Lottery Act of 1988. (3-25-22)()

c. Informal Award Procedure: The Director may award any personal services contract having an estimated one-time annual value of more than ten thousand dollars (\$10,000), but not more than twenty-five thousand dollars (\$25,000), if the following informal award procedure is followed: (3-25-22)

i. An attempt is made to obtain a minimum of three (3) competitive quotes. If three (3) quotes are not available, fewer will suffice provided a written record is made of the effort to obtain three (3) quotes. (3-25-22)

ii. A written record must be maintained of the source and amount of quotes received. (3-25-22)

iii. The Lottery contract award will be made to the lowest priced vendor who best meets the Lottery contract award criteria of Paragraph 200.07.a. of this rule. (3-25-22)()

iv. The Director maintains work papers documenting the basis of the award to ensure that the award will not negatively affect the security, credibility and integrity of the Lottery. (3-25-22)

d. Formal Award Procedures: Unless otherwise awarded under the provisions of Subparagraphs 200.07.b.ii. or 200.07.b.iii. of this rule, all personal services contracts having an estimated one-time or annual cost of more than twenty-five thousand dollars (\$25,000) must be awarded according to the formal award procedure, as follows: (3-25-22)

i. The Lottery will distribute copies of the proposal (usually a Request for Proposal) to Lottery vendors or to appropriate contractors who have indicated an interest, or are anticipated to have an interest, in providing the required service to the Lottery. Every Request for Proposal will include a response deadline date. All responses received by the Lottery after the deadline may be rejected. (3-25-22)

ii. The Director will appoint an evaluation panel consisting of at least four (4) persons, at least two (2) of whom are members of the Lottery's staff. The Director of Lottery Security will be one of the appointees to evaluate the responses for any project involving the security of the Lottery. (3-25-22)

iii. The evaluation panel must develop a system to evaluate the vendor responses and score each vendor's response. Based upon this evaluation, the evaluation panel must rank the three (3) best responses and develop an award recommendation. (3-25-22)

iv. The Lottery contract will be awarded to the vendor who best meets the award criteria. (3-25-22)()

e. No Lottery contract or other agreement for the purpose of providing services to the Lottery may be entered into, renewed, or extended with any person, unless the person certifies in writing, under penalty of perjury, that the person is not in violation of any Idaho tax laws on a form prescribed by the Idaho Tax Commission (ITC). A copy of the certification form may be obtained from the Lottery or the ITC. The original certification must be retained in the Lottery's contract file as required by the state's records retention guidelines. (3-25-22)()

08. Major Procurements. (3-25-22)

a. All bid announcements, invitations, or proposals covering major procurements will identify that the planned acquisition is classified as a major procurement. (3-25-22)

b. All Lottery contracts or procurement actions classified as major procurements will be subject to the disclosure requirements specified in Section 67-7421, Idaho Code. Subsections ~~010.05~~ 100.03.a. through 100.03.g. of these rules defines the term "control person" for purposes of disclosure requirements. The Lottery will enclose a copy of the disclosure requirements with each bid announcement or proposed request for such procurement. All disclosure filings are subject to the review and approval of the Director of the Lottery Security Division. Failure of any Lottery vendor to properly execute or timely submit the disclosure requirement may be grounds for rejection of the bid or proposal. (3-25-22)()

c. No Lottery contract for a major procurement with any Lottery vendor may be entered into if any control person of that Lottery vendor has been convicted of a crime, other than traffic infractions. Background checks must be made by the Director of Lottery Security to rigorously enforce this requirement. (3-25-22)()

d. The Lottery may prequalify Lottery vendors as having met the disclosure filing requirements for major procurements. The disclosure prequalifications may be renewed by July 1 of each year. The prequalifications will satisfy the disclosure requirements of the State Lottery Act of 1988, providing a certification is received from the Lottery vendor at the time of submitting any subsequent bid, proposal or offer and that no changes have occurred in the vendor's status, or that of its control persons, since the last filing of the complete disclosure statement. (3-25-22)()

e. Each Lottery vendor for a major procurement must maintain its disclosure filing in a current status during the tenure of the Lottery contract. Unless otherwise provided in the Lottery contract document, any changes in the status of the vendor, any of its listed control persons or additional control persons, must be reported to the Director within fourteen (14) days of the known change, and will require written submission of the same disclosure information to the Commission. (3-25-22)()

f. Each Lottery vendor for a major procurement is required to post a performance bond with the Commission as provided in Section 67-7427, Idaho Code. The performance bond must be issued by a surety licensed to do business in this state and be for the duration specified in the procurement announcement. (3-25-22)

09. Sensitive Procurements. (3-25-22)

a. All bid announcements, invitations, or Requests for Proposal covering sensitive procurements as defined in Subparagraph 200.01.a.ii. of this rule will identify that the planned acquisition is a sensitive procurement and will be subject to the provisions of this rule. (3-25-22)

b. The Director may establish special disclosure requirements governing State Lottery contracts for sensitive procurements that will be included in the procurement announcement. Failure of any Lottery vendor or contractor to properly execute or timely submit the disclosure requirement may be grounds for rejection of the bid or proposal. All disclosure filings are subject to the review and approval of the Director of Lottery Security. (3-25-22)

c. No Lottery contract for a major procurement with any Lottery vendor may be entered into if any control person of that Lottery vendor has been convicted of a crime, other than traffic infractions. Background checks must be made by the Director of Lottery Security to rigorously enforce this requirement. (3-25-22)()

d. The Lottery may prequalify Lottery vendors as having met the disclosure requirements of this rule. The prequalification will satisfy the disclosure filing requirement providing a certification is received from the Lottery vendor, at the time of submitting any subsequent bid, proposal or offer, that no changes have occurred in the vendor's status or any of its principals since the last filing of the full disclosure statement. (3-25-22)

e. Each Lottery vendor for a sensitive procurement must maintain its disclosure filing in a current status during the tenure of the Lottery contract. Unless otherwise provided in the Lottery contract document, any changes in the vendor's status or any of its principals, must be reported to the Director within fourteen (14) days of the known change, and will require written submission of the same disclosure information to the Commission. (3-25-22)()

f. Each Lottery contractor for a sensitive procurement may be required to post a performance bond with the Lottery. The performance bond must be issued by a surety licensed to do business in this state and be for the amount and duration specified in the procurement announcement. (3-25-22)

10. Advertising and Promotional Contract. Because advertising and promotional contracts involve unique marketing strategies for Lottery games, the acquisition of these services and purchases may be made directly without using competitive procurement procedures. The prudent person rule will apply in the award of these contracts or the acquisition of these services. This exemption applies to all advertising and promotional contracts, whether placed through the Lottery's advertising agency or directly by the Commission or the Director. For the purpose of this rule, advertising and promotional contracts include but are not limited to: agreements with radio and television stations, acquisition of prizes, media selection, placement of advertising contracts, promotional printing, art work and development and placement of all forms of commercials and display presentations. (3-25-22)

11. Investment Contracts. The Lottery may enter into contracts for the acquisition of structured settlements, place investments or acquire annuities related to the pay-off of major prize winners without following competitive bidding procedures. The Lottery will follow the prudent person rule in the placement of such investments. (3-25-22)

12. Prequalification of Annuity Vendors. (3-25-22)

- a.** For the purpose of acquiring annuities related to the pay-off of major prize winners, the Lottery will maintain an ongoing prequalification list of annuity vendors. A vendor must first be prequalified by the Lottery before submitting a bid to the Lottery for the award of an annuity contract. Vendors may submit their qualifications to the Lottery for evaluation any time in the year. (3-25-22)
- b.** The following criteria must be met by each vendor before being placed on the prequalification list: (3-25-22)
- i.** Each bidder must be an insurance company licensed to do business in Idaho and have been in business for a period of two (2) years immediately before submitting its bid. (3-25-22)
- ii.** An insurance company must be a Best's "A+" rated company and have at least a Best's Class VII financial size classification. (3-25-22)
- iii.** Each bidder's request for qualification must contain: (3-25-22)
- (1) The name, address, telephone number and contact person for the bidder. (3-25-22)
- (2) The current financial statement of the bidder certified by an independent certified public accountant. (3-25-22)
- (3) The names, addresses and telephone numbers of three (3) current or past annuity client references whom the Lottery may contact. (3-25-22)
- c.** After a vendor has been prequalified, the vendor may submit bids to the Lottery in accordance with the procedures established by the Director. Furthermore, a vendor must keep its qualifications current by promptly reporting any changes in their status to the Lottery. (3-25-22)
- d.** The total amount of annuities awarded to an insurance company cannot exceed five percent (5%) of its stated surplus. (3-25-22)
- e.** Nothing contained in this rule will preclude a brokerage company from representing or submitting a bid on behalf of a qualified bidder. (3-25-22)

201. CRITERIA FOR REVIEW OF RETAILER APPLICATIONS AND CONDUCT OF OPERATIONS.

01. Retailer's Application. Any person interested in obtaining a Lottery contract for a certificate to sell Lottery tickets must first file an application on forms provided by the Director. The forms will require disclosure of, but are not limited to, an applicant's personal, financial, and criminal history, and an authorization to investigate the applicant's criminal and credit history. (3-25-22)()

02. Fees, Procedure, and Criteria Precluding Issuing Contract. (3-25-22)

a. All certificate applications must be accompanied by a minimum, nonrefundable, fee of twenty-five dollars (\$25). If a certificate is awarded, an additional, nonrefundable, certificate fee of one hundred dollars (\$100) must be paid. (3-25-22)

b. A current retailer may be required to complete an additional application or application supplements. If a current retailer requests that the existing certificate be modified to allow the sale of additional Lottery products, no additional application fee will be charged. (3-25-22)

c. The Lottery may waive the payment of any certificate fee to facilitate an experimental program or a research project. (3-25-22)

03. ~~Provisional~~ Retailer Certifications. (3-25-22)

a. The Lottery may issue a ~~provisional~~ retailer certificate to an applicant ~~for a Lottery certificate~~ after

receipt of a fully completed certificate application, the authorization of a complete personal background check, completion of a credit check, and completion of a preliminary background check. ~~The provisional certificate will expire at the time of issuance of the requested certificate or ninety (90) days from the date the provisional certificate was issued, whichever occurs first, unless the provisional certificate is extended by the Lottery.~~ (3-25-22)()

- b. No Lottery contract shall be made with an applicant: (3-25-22)()
 - ~~i. Who is under eighteen (18) years of age;~~ (3-25-22)
 - ~~ii. Who will be engaged exclusively in the business of selling tickets;~~ (3-25-22)
 - iii. Who is an employee of the Lottery; (3-25-22)
 - ~~iv. Who is, or is owned or controlled or affiliated with, a supplier of instant tickets or a manufacturer of computer equipment used to operate instant or on-line games, or both;~~ (3-25-22)
 - ~~v.ii.~~ Who is not a resident of Idaho, or a corporation that is not incorporated in Idaho or not authorized to do business in Idaho; (3-25-22)
 - ~~v.iii.~~ Who has been found to have violated any rule, regulation, or order of the Commission or the Director; (3-25-22)
 - ~~v.iv.~~ When any person, firm, association, or corporation other than the applicant will participate in the management of the affairs of the applicant. (3-25-22)

04. Criteria That May Be Grounds For Refusal. Before contracting with an applicant, the Director will consider the factors set out below. In considering these factors, the Director will seek to determine which applicants will best serve the economical and efficient operation of a statewide Lottery through their ticket sales. If any of these factors lead the Director to determine that contracting with the applicant would not promote the economical and efficient operation of a statewide Lottery consonant with the public interest, or would not serve the public interest, convenience, or trust, the Director may deny the application. (3-25-22)

a. The Director will consider the financial responsibility and security of the person and the person's business or activity and consider the person's credit worthiness and integrity in past financial transactions. The Lottery may investigate the credit worthiness of the applicant by using the services of a commercial credit reporting agency. The Director may also consider the physical security of the applicant's place of business to determine whether tickets that will be sold to the applicant and the proceeds from ticket sales will be kept safe. (3-25-22)

b. The Director will consider the accessibility to the public of an applicant's place of business or activity. The Director will contract only with applicants who have regular contact with significant numbers of persons at the applicant's place of business. Before contracting with any organization that has restricted membership policies, the Director must determine whether the restrictions are generally acceptable to the public and whether contracting with that group or organization or similar groups or organizations would best serve the interests of the Lottery. (3-25-22)

c. The Director will consider the sufficiency of existing retailers to serve the public interest. The Director may seek to maximize total ticket sales by encouraging retailers with the highest potential volume in a particular area or neighborhood. (3-25-22)

d. The Director will consider the volume of expected sales by the applicant. In determining the anticipated actual sales volume of the applicant, the Director may rely upon the experience and knowledge of the Lottery's staff as well as any other available professional expertise. The Director will determine whether the volume of an applicant's sales is likely to be sufficient that contracting with the applicant will be economically feasible. (3-25-22)

e. The Director will consider the types of products, services, or entertainment offered at the applicant's place of business. The Director will determine whether the applicant's products, services, or entertainment

are generally acceptable to the public and whether they would bear adversely upon the general credibility, integrity, and reputation of the Lottery. (3-25-22)

f. The Director will consider the experience, character, or general fitness of the applicant. Entering into a **Lottery** contract with the applicant must be consistent with the public interest, convenience, and trust. (3-25-22)()

g. The Director will consider the veracity and completeness of the information submitted with the retailer's application. The Director will consider the criminal history of the applicant and any person whose name is required to be disclosed under Section 67-7412, Idaho Code, of the **State Lottery Act of 1988** and may refuse to enter into a **Lottery** contract with any applicant when the applicant or such person has been convicted of violating any of the gambling laws of this state, general or local, or has been convicted at any time of any crime other than traffic infraction. (3-25-22)()

05. Reporting Changes in Circumstances of The Retailer. Every change of business structure of a certificated business, such as from a sole proprietorship to a corporation, and every change in the name of a business, must be reported to the Lottery before the change. Substantial changes in the ownership of a certificated business must also be reported to the Lottery before the change. A substantial change of ownership is defined as the transfer of ten percent (10%) or more equity in the certificated business from or to another single individual or legal entity. If a change involves the addition or deletion of one (1) or more existing owners or officers, the certificate holder must submit a certificate application reflecting the change and any other documentation that the Lottery may require. All changes will be reviewed by the Lottery to determine if the existing certificate should be continued. (3-25-22)

06. Certificate Not a Vested or Legal Right. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity is a privilege personal to that person and is not a vested or legal right. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity does not automatically entitle that person to sell tickets or obtain materials for any particular **Lottery** game. (3-25-22)()

07. Suspension or Revocation of a Certificate. The Lottery may suspend or revoke any certificate issued pursuant to these rules for one (1) or more of the following reasons: (3-25-22)

a. Failing to meet or maintain the eligibility criteria for certificate application and issuance established by Title 67, Chapter 74, Idaho Code, or these rules; (3-25-22)

b. Violation of any of the provisions of Title 67, Chapter 74, Idaho Code, these rules, or the certificate terms and conditions; (3-25-22)

c. Failing to file any return or report or to keep records required by the State Lottery (3-25-22)

d. Failing to maintain an acceptable level of financial responsibility as evidenced by the financial condition of the business, incidents of failure to pay taxes or other debts, or by the giving of financial instruments which are dishonored; (3-25-22)

e. Fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the Lottery; (3-25-22)

f. If the public convenience is adequately served by other certificate holders, failure to sell a minimum number of tickets as established by the Lottery; (3-25-22)

g. A history of thefts or other forms of losses of tickets or revenue from the business; (3-25-22)

h. Violating federal, state, or local law or allowing the violation of any of these laws on premises occupied by or controlled by any person over whom the retailer has substantial control; (3-25-22)

i. Obtaining a certificate by fraud, misrepresentation, concealment or through inadvertence or mistake; (3-25-22)

j. Making a misrepresentation of fact to the Commission or the Lottery on any report, record, application form, or questionnaire required to be submitted to the Commission or the Lottery; (3-25-22)

k. Denying the Lottery or its authorized representative, including authorized local law enforcement agencies, access to any place where a certificate activity is conducted; (3-25-22)

l. Failing to promptly produce for inspection or audit any book, record, document, or other item required to be produced by law, these rules, or the terms of the certificate; (3-25-22)

m. Systemically pursuing economic gain in a manner or context that is in violation of the criminal or civil public policy of this state ~~if there is cause to believe that the participation of such person in these activities is inimical to the proper operation of the authorized Lottery;~~ (3-25-22)()

n. Failing to follow the instructions of the Lottery for the conduct of any particular Lottery game or special event; (3-25-22)()

o. Failing to follow security procedures of the Lottery for the management of personnel, handling of tickets, or for the conduct of any particular Lottery game or special event; (3-25-22)()

p. Misrepresenting a fact to a purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular Lottery game or special event; (3-25-22)()

q. Allowing activities on the licensed premises that could compromise the dignity of the state. (3-25-22)

08. Surrender of Certificate Upon Revocation. Upon revocation or suspension of a retailer's certificate, the retailer must surrender to the Lottery, by a date designated by the Lottery, the certificate and all other Lottery property. (3-25-22)

09. Certified Retailers. All Lottery retailers must be certified in the manner provided in these rules. Retailers are required to abide by all applicable laws and administrative rules, the terms and conditions of the Lottery contract and certificate, and all other directives and instructions issued by the Lottery. (3-25-22)()

10. Requirements For The Sale of Tickets. (3-25-22)

a. Retailers must be knowledgeable about the Lottery and Lottery products and may be required to take training in the operation of Lottery games. Retailers must make the purchase of tickets convenient to the public. (3-25-22)

b. Tickets must be sold at the price designated by the Lottery. Retailers cannot sell tickets for a greater amount than the amount specified by the Lottery. Retailers may sell tickets for a lesser amount for promotional purposes if authorized by the Lottery. (3-25-22)

c. No retailer or any employee or member of a retailer shall attempt to identify a winning ticket before sale of the ticket. (3-25-22)

d. When a retailer is required by its contract with the Lottery to pay a prize to a winner, the retailer must pay the prize whenever the winner tenders a winning ticket during the retailer's normal business hours at the location designated on the retailer's certificate. (3-25-22)

e. Retailers are prohibited from purchasing tickets previously sold by the retailer. (3-25-22)

~~**11. Display of Certificate and Other Materials.** Retailers must display the Lottery certificate in an area visible to the general public wherever tickets are being sold and also display point of sale material provided by the Lottery in a manner that is readily seen by and available to the public. Retailers may advertise and use or display other appropriate promotional and point of sale material. The Lottery may require the removal of objectionable material or the discontinuance of objectionable advertising that may have an adverse impact on the Lottery.~~

~~(3-25-22)~~

121. Dishonored Checks and Electronic Fund Transfers. Any payment made to the Lottery by an applicant for a certificate or by a certificated retailer either by a check that is dishonored or by an electronic funds transfer (EFT) that is not paid by the depository, is grounds for immediate denial of the application for a certificate or for suspension or revocation of an existing certificate. The Lottery may assess a surcharge for each dishonored check or EFT. The Lottery may also alter the payment terms of a retailer's certificate and require a retailer to reimburse the Lottery for costs that occur as a result of a dishonored check or EFT. (3-25-22)

132. Inspection of Lottery Materials and Retailer Premises. Retailers must allow the Lottery to enter upon the retailer's certificated premises in order to inspect Lottery materials, tickets, and the premises. All books and records pertaining to the retailer's Lottery activities must be available to the Lottery for inspection and copying during the normal business hours of the retailer and between 8 a.m. and 5 p.m., Monday through Friday. All books and records pertaining to the retailer's Lottery activities are subject to seizure by the Lottery without prior notice. (3-25-22)

202. GENERAL INSTANT TICKET GAME OPERATING RULES.

01. Instant Games -- Authorized -- Director's Authority. The Commission hereby authorizes instant games that meet the criteria set forth in these rules. The Director is hereby authorized to select, operate, and contract relating to and for the operation of instant games that meet the criteria set forth in these rules. (3-25-22)

02. Definitions. ~~As used in Section 202 of these rules, these terms have the following definitions:~~ (3-25-22) ()

- a.** Instant Ticket Validation Bar Code. The bar code that enables retailers to validate instant tickets. (3-25-22)
 - b.** ITA System. The Instant Ticket Automation system that validates winning instant tickets. (3-25-22)
 - c.** Pack. A package of instant game tickets with a designated number of tickets that may be (but do not have to be) fanfolded and attached to each other by perforations, which perforations the retailer tears when selling a ticket, and that are packaged in plastic shrink-wrapping, foil or some similar outer wrapping material. (3-25-22)
 - d.** Pack-Ticket Number. The number printed on the ticket. A game identification number must be included in the book-ticket number. (3-25-22)
 - e.** Play Symbol Caption. The small printed material appearing below each play symbol which repeats or explains the play symbol. One (1) and only one (1) play symbol captions appears under each play symbol. (3-25-22)
 - f.** Play Symbols. Figures printed in approved ink that appear under each of the rub-off spots on the front of the ticket. (3-25-22)
 - g.** Retailer Validation Code. The small letters found under the removable rub-off covering over the play symbols on the front of the ticket, which the ticket retailer uses to verify winners of twenty-five dollars (\$25) or less. The letters appear in varying locations beneath the removable rub-off covering and among the play symbols. (3-25-22)
 - h.** Ticket. An Idaho instant game ticket. (3-25-22)
 - i.** Ticket Validation Number. The unique number on the front of the ticket. (3-25-22)
- 03. Sale of Tickets.** (3-25-22)

a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell Lottery tickets, except that nothing in this section prevents a person who may lawfully purchase tickets from making

a gift of Lottery tickets to another. (3-25-22)

b. Unless authorized by the Lottery, tickets may not be sold at a location other than the address listed on the retailer's contract with the Lottery. (3-25-22)

c. Nothing in this section prohibits the Commission from designating certain of its agents and Lottery employees to sell Lottery tickets directly to the public. (3-25-22)()

04. Instant Games Ticket Price. The price of an instant game ticket will be set by the Director. ~~No person may sell a ticket at a price other than that established in accordance with these rules.~~ (3-25-22)()

05. Prize Structures. The Director will provide to all Lottery game retailers a detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each Lottery game and a close approximation of the odds of winning the prizes. (3-25-22)

06. Number and Value of Instant Ticket Prizes. Lottery game prize structures, odds of winning, number of tickets, number and value of prizes, play symbol and captions used for validation will not be adopted by administrative rules. Rather, the Director will submit proposed instant games to the Commission, who must approve each instant game's general format before the initiation of each instant game. All instant games must be conducted in accordance with the rules of the Commission. (3-25-22)()

07. Official Start of Instant Game's. (3-25-22)()

a. ~~Games with a prize structure adopted by the Commission pursuant to Subsection 202.07 of this rule may be started at a time selected by the Director.~~ The Director will publicly announce the starting date of a new instant game by use of a press release or any other appropriate means. The Director may also issue instant game information that includes a description of the instant game, odds of winning a prize, the number and value of prizes, and the play symbols and captions used for prize validation. (3-25-22)()

b. ~~Games using a prize structure other than a prize structure previously approved by the Commission must be approved by the Commission before game tickets can be sold to the public.~~ (3-25-22)

08. Determination of Winners. (3-25-22)

a. Winners of an instant game are determined by the matching or specified alignment of the play symbols on the tickets. The play symbols are revealed by scratching or rubbing off the latex or similar secure material that covers spots on the ticket. The ticket bearer must notify the retailer or the Lottery of the win and submit the winning ticket to the retailer or the Lottery as provided in these rules. The winning ticket must be validated by the Lottery through use of the validation number or by any other means specified by the Director. (3-25-22)

b. Unless otherwise provided by instant game rules, only the highest instant prize amount will be paid on a given ticket. (3-25-22)()

c. No portion of the play symbol captions, retailer validation codes, display printing nor any extraneous matter whatever will be usable or playable as a part of the instant game. (3-25-22)

d. The ticket validation number or any portion thereof is not a play spot and is not usable or playable as such. (3-25-22)

e. In all Lottery games, the determination of prize winners is subject to the general ticket validation requirements set forth in Subsection ~~200.14~~ 202.09, et seq., and Subsection 202.11 of this rule, and the requirements set out on the back of each instant game ticket. (3-25-22)()

f. The length of operation of an instant game will be determined by the Director. The start date and closing date of the instant game will be publicly announced. (3-25-22)

09. Payment of Prizes. ~~The procedures for claiming instant ticket prizes are as follows:~~ (3-25-22)

~~a. Instant ticket prizes of less than six hundred dollars (\$600) may be claimed by one (1) of the following methods: (3-25-22)~~

~~i. The claimant may present the winning ticket to any Lottery retailer. The retailer must verify the claim and, if acceptable, make payment of the amount due the claimant. A retailer may pay prizes in cash or by business check, money order, no fee prize payment card, or any combination thereof. A retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of the retailer's contract. (7-1-25)~~

~~ii. If the retailer cannot verify the claim, the claimant must fill out a claim form and the retailer must present the completed form and the disputed ticket to the Director. If the claim is validated, payment will be made to the claimant in cash, or by check or money order in the amount due. If the claim is not validated, the claim will be denied and the claimant will be promptly notified. (7-1-25)~~

~~iii. The claimant may present the ticket to the Lottery office or complete a claim form and mail it with the ticket to the Idaho State Lottery (registered mail recommended). Claim forms may be obtained from any Lottery game retailer or from the Lottery. (7-1-25)~~

~~b. To claim an instant prize of six hundred dollars (\$600) or more, the claimant must either present the winning ticket to the Lottery office or complete a claim form and mail the completed form together with the winning ticket to the Idaho State Lottery (registered mail recommended). (7-1-25)~~

~~e. Prizes of six hundred dollars (\$600) or more can be paid only from the Boise Lottery office. Upon validation by the Director, payment will be made by check or money order in the amount due, less any applicable federal income tax withholding. (7-1-25)~~

~~d. Any ticket not passing all the validation checks is void and ineligible for any prize and will not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or ticket of equivalent sales price from any other current game). If a defective ticket is purchased, the only responsibility or liability of the Lottery is the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sale price from any other current game). (3-25-22)~~

~~e. All prizes will be paid within a reasonable time after they are awarded and after the claims are verified by the Director. For each prize requiring annual payments, all payments after the first payment will be made on the anniversary date of the first payment in accordance with the type of prize awarded. The Director may, at any time, delay any payment in order to review a change of circumstances concerning the prize awarded, the payee, the claim, or any other matter that may have come to his attention. All delayed payments will be brought up to date immediately upon the Director's confirmation and continue to be paid on each original anniversary date thereafter. (3-25-22)~~

4009. Ticket Validation Requirements. In addition to meeting all of the other requirements in these rules or as may be printed on the back of each instant game ticket, the following validation requirements apply with regard to instant game tickets: (3-25-22)

a. To be a valid instant game ticket, the ticket must: (3-25-22)

i. Have been issued by the Director in an authorized manner. (3-25-22)

ii. Not be altered, unreadable, or tampered with in any manner. (3-25-22)

iii. Not be counterfeit in whole or in part. (3-25-22)

iv. Not be stolen nor appear on any list of omitted tickets on file with the Lottery. (3-25-22)

v. Be complete and not blank (or partially blank), miscut, misregistered, defective, or printed or produced in error. (3-25-22)

vi. Under the opaque covered play area, have play symbols and the correct corresponding captions, exactly one (1) pack-ticket number, exactly one (1) agent verification code, and exactly one (1) validation number as required by each approved set of instant game rules, all of which must be present in their entirety, legible, right-side up, and not reversed in any manner. (3-25-22)()

vii. The validation number of an apparent winning ticket must appear on the Lottery's official list of validation numbers of winning tickets; and a ticket with that validation number cannot have been previously paid. (3-25-22)

viii. Pass all additional confidential validation requirements established by the Director. (3-25-22)

ix. Be signed if the prize is for six hundred dollars (\$600) or more. (3-25-22)

~~**b.** Any ticket not passing all the validation checks in Paragraph 202.11.a. of this rule is void and ineligible for any prize and shall not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price) from any other current Lottery game. If a defective ticket is purchased, the only responsibility or liability of the Lottery will be the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sales price from any other current Lottery game).~~ (3-25-22)

~~**e.** The Director may authorize reconstruction of an alleged winning ticket that was not received or cannot be located by the Lottery, provided, the person requesting reconstruction must submit to the Lottery sufficient evidence to enable reconstruction and submit a claim for the prize, if any, for that ticket. If the reconstructed ticket is a winning ticket and meets the validation requirements of Paragraph 202.11.a. of this rule and any specific validation requirements contained in the rules for its specific game, the Director may authorize payment of the prize. Provided, the ticket will not be validated nor the prize paid before the one hundred eighty first (181) day following the official end of that instant game. A ticket(s) validated pursuant to this Subsection will not entitle the claimant to be entered into the grand prize drawing, if any, for that or any subsequent instant game.~~ (3-25-22)

~~**11. Prize Rights Unassignable.** No person's right to a prize already drawn is assignable, except that payment of any prize already drawn may be paid to the estate of a deceased prize winner, and a person other than the prize winner may be paid the prize to which the winner is entitled as provided by court order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule.~~ (3-25-22)

~~**12. Payment of Prizes to Persons Under Eighteen Years of Age.** If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho law. For purposes of this Subsection, the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule.~~ (3-25-22)

~~**13. Prizes Payable After Death or Disability of Owner.**~~ (3-25-22)

~~**a.** All prizes, and portions of prizes that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings.~~ (3-25-22)

~~**b.** The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings that are or may become due to a person under a disability including, but not limited to, mental deficiency, or physical or mental incapacity.~~ (3-25-22)

~~14. **Governing Law.** In purchasing a ticket, the customer agrees to comply with, and abide by, Idaho law, and all rules and final decisions of the Lottery, and all procedures and instructions established by the Lottery or the Director for the conduct of the game. (3-25-22)~~

~~15. **Discharge of All Liability Upon Payment.** The state of Idaho, its agents, officers, employees, and representatives, the Lottery, its Director, agents, officers, employees and representatives, will be discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes are final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. (3-25-22)~~

~~16. **Unclaimed Prize Money.** Any prize not claimed within the specified period will be forfeited and placed into the State Lottery Account. (3-25-22)~~

~~17. **Disclosure.** The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. (3-25-22)~~

~~180. **Confidentiality of Tickets.** All retailers and their employees and agents are prohibited from attempting to ascertain the numbers or symbols appearing in the designated areas under the removable latex or similar secure coverings or otherwise attempting to identify winning tickets. (3-25-22)~~

~~191. **Official End of Instant Game's.** (3-25-22)()~~

~~a. The official end of an instant game will be announced by the Lottery. Prizes may be claimed up to one hundred eighty (180) days after the official end of the instant game. If the final day of the claim period falls on a Saturday, Sunday or a state holiday, the claim period will be extended to the end of the next business day. ~~A player may submit a winning ticket claim for prize payment up to one hundred eighty (180) days after the official end of the game.~~ Depending on the prize amount, the ticket should be submitted to the location specified in Subsection ~~202.10~~ 101.14 of this rule, "Payment of Prizes." To participate in one (1) of the Lottery's special drawings, if any, a player must redeem a ticket that qualifies for entry into that special drawing within the time limits specified by the Director. (3-25-22)()~~

~~b. A retailer must return to the Lottery all unsold Lottery tickets for each instant game within ninety (90) days of the official end of that instant game in order to receive credit from the Lottery as provided in retailer's contract. The Lottery has no obligation to grant credit for tickets returned after the time limit specified in the contract. (3-25-22)()~~

203. (RESERVED)

204. ~~ON-LINE-DRAW~~ COMPUTER GAMES.

~~01. **On-Line-Draw Games -- Authorized -- Director's Authority.** The Commission hereby authorizes the Director to select and operate on-line draw games which meet the criteria set forth in these rules. (3-25-22)()~~

~~02. **Definitions.** ~~As used in Rule 204 these terms have the following definitions:~~ (3-25-22)()~~

- a. “Drawing.” The procedure determined by the Director by which the Lottery selects the winning combination in accordance with the rules of the draw game. Drawings are open to the public. (3-25-22)()
- b. “On-line Draw Game.” (3-25-22)()
- i. A Lottery game in which a player selects a combination of numbers or symbols, the type of draw game and amount of play, and the drawing date by use of a computer. In return for paying the appropriate price, the player receives a computer-generated ticket with the player’s selection printed on it. Each ticket bearer whose valid ticket includes a winning combination will be entitled to a prize if claim is submitted within the specified time period. (3-25-22)()
- ii. On-line terminal (OLT) instant ticket game having characteristics as defined in Paragraphs 202.02.a., 202.02.b., 202.02.d. and 202.02.i. of these rules. (3-25-22)
- c. “On-line Retailer.” A person or business authorized by the Lottery to sell on-line tickets. (3-25-22)
- d. “On-line Draw Terminal-(OLT).” The computer hardware by which an on-line retailer or player enters the combination selected by the player and by which on-line tickets are generated and claims are validated. (3-25-22)()
- e. “On-line Draw Ticket.” A computer-generated ticket issued by an on-line draw terminal to a player as a receipt for the combination a player has selected. That ticket is the only acceptable evidence of the combination of numbers or symbols selected. (3-25-22)()
- f. “Ticket Bearer.” The person who has signed the on-line draw ticket or who has possession of an unsigned ticket. (3-25-22)()
- g. “Validation.” The process of determining whether an on-line draw ticket presented for payment is a winning ticket. (3-25-22)()
- h. “Winning Combination.” One (1) or more numbers or symbols randomly selected by the State Lottery or its designee in a public drawing. (3-25-22)
- 03. Distribution of Tickets.** (3-25-22)
- a. Tickets will be sold by retailers selected by the Director. (3-25-22)
- b. The Director is authorized to arrange for the distribution of OLTs draw terminals, player-activated terminals (PATs), ticket stock, and supplies to certificated retailers. (3-25-22)()
- 04. Sale of Tickets.** (3-25-22)
- a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell on-line draw Lottery tickets, except that nothing in this section will be construed to prevent a person who may lawfully purchase tickets from making a gift of Lottery tickets to another. (3-25-22)()
- b. Tickets may not be sold at a location other than the address listed on the retailer’s contract with the Lottery. (3-25-22)
- c. Nothing in this section prohibits the Director from designating certain of its agents and Lottery employees to sell Lottery tickets directly to the public. (3-25-22)()
- 05. On-Line Draw Games Criteria.** (3-25-22)()
- a. The base price of an on-line draw ticket will not be less than fifty cents (\$.50), except to the extent of discounts authorized by the Commission. (3-25-22)()

b. The price for a ticket in any particular ~~on-line draw~~ game will be set out in the draw game rules adopted by the Commission for that draw game. No person may sell a ticket at a price other than that established in accordance with these rules. ~~On the average, the total of all prizes available to be won in an on-line game will not be less than forty-five percent (45%) of the on-line game's projected revenue.~~ (3-25-22)()

c. The manner and frequency of drawings may vary with the type of ~~on-line draw~~ game as defined in Subparagraph 204.02.b.i. of these rules. (3-25-22)()

d. The times, locations, and drawing procedures will be determined by the Director. (3-25-22)

e. OLT instant Draw ticket game as defined in Subparagraph 204.02.b.ii. of these rules will operate with a finite number of tickets per draw game and a predetermined and guaranteed prize structure approved by the Director. (3-25-22)()

f. A ticket bearer entitled to a prize must submit the winning ticket as specified by the Director. The winning ticket must be validated by the Lottery or an ~~on-line draw~~ retailer through use of the validation number and any other means specified by the Director. (3-25-22)()

~~06. Payment of Prizes.~~ (3-25-22)

~~a. To claim an on-line game prize of less than six hundred dollars (\$600) the claimant may present the winning on-line ticket to any on-line retailer, or to the Lottery office:~~ (3-25-22)

~~i. If the claim is presented to an on-line retailer, the on-line retailer must validate the claim and, if determined to be a winning ticket, pay the amount due the claimant as set forth in Rule 204.10.b. If the on-line retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the Lottery. Upon determination that the ticket is a winning ticket, the Lottery will make payment of the amount due in cash, by check, or money order. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant.~~ (7-1-25)

~~ii. If the claim is presented to the Lottery office, the claimant will be required to complete a claim form and submit it with the winning ticket. Upon determination that the ticket is a winning ticket, the Lottery will make payment of the amount due in cash, by check, or money order, less any withholding required by the Internal Revenue Code. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant.~~ (7-1-25)

~~b. To claim an on-line prize of six hundred dollars (\$600) or more, the claimant must obtain and complete a claim form and submit it with the winning ticket to the Lottery office. Prizes of six hundred dollars (\$600) or more can be paid only from the Lottery office. Upon determination that the ticket is a winning ticket, the Lottery will make payment of the amount due by check or money order, less any withholding required by the Internal Revenue Code and the state of Idaho. The amount due will be calculated according to the rules adopted for the particular on-line game. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant.~~ (7-1-25)

~~e. All prizes must be claimed within one hundred eighty (180) days from the drawing in which the prize was won. If the final day of the one hundred eighty (180) day period falls on a Saturday, Sunday or a state holiday, the claim period will be extended to the end of the next business day. Any prize not claimed within the specified period will be forfeited and placed into the State Lottery account.~~ (3-25-22)

~~07. Drawings and End of Sales Prior to Drawings.~~ (3-25-22)

~~a. Drawings will be conducted in a location and at days and times designated by the Director.~~ (3-25-22)

~~b. For each type of on-line draw game, the Director will establish a time before the drawing for the end of sales.~~ (3-25-22)()

c. The Director will designate the type of equipment to be used and will establish procedures to randomly select the winning combination for each type of ~~on-line draw~~ game. Drawing procedures will include provisions for the substitution of backup drawing equipment if the primary drawing equipment malfunctions or fails for any reason. (3-25-22)()

d. The equipment used to determine the winning combination will not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer. The drawing results, including sales, number of winners and numbers drawn, will be audited and reviewed after each drawing to ~~assure ensure~~ proper operation and lack of tampering or fraud. (3-25-22)()

e. All drawings may be broadcast live on television, provided the facilities for such broadcasts are available and operational and can be done at a reasonable cost. (3-25-22)

f. The Director will establish procedures governing the conduct of drawings for each type of ~~on-line draw~~ game. The procedures must include provisions for deviations that include but are not limited to: (3-25-22)()

~~i. Malfunction of the drawing equipment before determination of the winning combination; (3-25-22)~~

~~ii. Fouled drawing; (3-25-22)~~

~~iii. Delayed drawing; and (3-25-22)~~

~~iv. Other equipment, facility or personnel difficulties. (3-25-22)~~

~~g. If a deviation occurs, the drawing will be completed under the supervision of the Lottery or its designee. The winning combination will be provided to the public. (3-25-22)~~

~~h. If, during any live broadcasted drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all numbers or symbols, a “foul” will be called by Lottery security or the Lottery’s designee. Any number drawn before a “foul” is called will stand and be deemed official after passing inspection and certification by Lottery security or the Lottery’s designee. (3-25-22)~~

~~ig. The Director will delay payment of all prizes if any evidence exists or there are grounds for suspicion that tampering or fraud has occurred. Payment will be made after an investigation is completed and the drawing approved by Lottery security or the Lottery’s designee. If the drawing is not approved, it will be void and another drawing will be conducted to determine the actual winner. (3-25-22)~~

087. Validation Requirements. (3-25-22)

a. To be a valid winning ~~on-line draw~~ ticket, the ticket must ~~pass all security checks of the lottery~~; (3-25-22)()

~~i. Have all printing on the ticket in its entirety, be legible, and correspond, using the computer validation file, to the combination and the date printed on the ticket. (3-25-22)~~

~~ii. Be intact, not be mutilated, altered, or tampered with in any manner. (3-25-22)~~

~~iii. Not be counterfeit or an exact duplicate of another winning ticket. (3-25-22)~~

~~iv. Have been issued by an authorized on-line retailer or dispensed by a player-activated terminal in an authorized manner. (3-25-22)~~

~~v. Not have been stolen or cancelled. (3-25-22)~~

~~vi. Not have been previously paid. (3-25-22)~~

- vii. ~~Pass all other confidential security checks of the Lottery.~~ (3-25-22)
- viii. ~~Be signed if the prize is for six hundred dollars (\$600) or more.~~ (3-25-22)
- b. A ticket failing any of the validation requirements ~~listed in Paragraph 204.08.a.~~ of this rule is invalid and ineligible for a prize. The final decision on whether a prize is paid will be made by the Director. (3-25-22)()
- c. If there is a dispute between the Director and a claimant whether a ticket is a winning ticket, and if the Director determines that the ticket is not valid and a prize is not paid, the Director may replace the disputed ticket with a ticket of equivalent sales price for a future drawing of the same type of draw game. This will be the sole and exclusive remedy of the claimant. (3-25-22)()
- d. If a defective ~~on-line draw~~ ticket is purchased, the only responsibility or liability of the Lottery or of the ~~on-line draw~~ retailer is the replacement of the defective ~~on-line draw~~ ticket with another ~~on-line draw~~ ticket of equivalent value for a future drawing of the same type of draw game. (3-25-22)()
- 098. Retailer Duties.** Retailers with an ~~on-line draw~~ terminal (~~OLT~~) must perform the following duties: (3-25-22)()
- a. Pay costs associated with providing a telephone line or internet or similar connection that must be located as specified by the Lottery. Payment of the telephone line or internet or similar connection is nonrefundable after installation, except if the Lottery denies, through no fault of retailer, the installation of the ~~on-line draw~~ terminal. (3-25-22)()
- b. Pay the Lottery for the local monthly telephone or internet or similar charges per ~~OLT draw terminal~~ as specified by the Lottery. The Lottery will pay for the mileage charges (if any) between the retailer's location and the Lottery's central site. (3-25-22)()
- c. Hold funds generated from the sale of ~~on-line draw~~ tickets in trust for the Lottery. At a time specified by the Lottery, the retailer must pay these funds to the Lottery plus the monthly communications charge specified above in Paragraph ~~204.09.b.~~ 204.08.b. of this rule, less: (3-25-22)()
- i. Prizes paid; (3-25-22)
- ii. Any credit; and (3-25-22)
- iii. The retailer discount. (3-25-22)
- d. Locate the ~~OLT draw terminal~~ within the retailer's premises at a point-of-sale location approved by the Lottery. The retailer is prohibited from moving an ~~OLT draw terminal~~ unless the retailer follows the procedures established by the Director, including reimbursing the State Lottery for any telephone or internet or similar charges associated with the change of ~~OLT the draw terminal~~ location if the retailer requested the change. (3-25-22)()
- e. Provide dedicated AC power to within approximately five (5) feet of the terminal. Dedicated AC power means that there is no other equipment on the line that is to be used for the ~~on-line draw~~ terminal. The retailer is responsible for all costs associated with providing dedicated AC power. The Lottery will provide a schematic of outlet requirements to the retailer's electrical contractor. (3-25-22)()
- f. Sell all Lottery games, including but not limited to instant game tickets offered by the Lottery. The retailer agrees to continue the sale of instant tickets from all cash registers or other points of purchase. (3-25-22)
- g. Conduct the sale of ~~on-line draw~~ tickets during all hours and days that the retailer's business is open and the ~~on-line draw~~ system is functioning. The retailer must post the hours that redemption of winning tickets may take place if these hours are different from the retailer's normal business hours. The retailer must monitor ticket supply levels and give timely notice when any item is in short supply. (3-25-22)()

h. Post winning numbers prominently where tickets are sold as soon as possible following the drawing. (3-25-22)

i. Provide secure storage for ~~OLT draw terminal~~ supplies and a secure area for the ~~OLT draw terminal~~. (3-25-22)()

j. Exercise due diligence in the operation of the ~~OLT draw terminal~~ and immediately notify the Lottery and the central computer facility of any telephone line, internet, radio, or ~~OLT draw terminal~~ malfunction, such as the issuance of an invalid ~~on-line draw~~ Lottery ticket, inability to sell or redeem an ~~on-line draw~~ ticket, and non-issuance of an ~~on-line draw~~ ticket. The retailer is prohibited from performing mechanical or electrical maintenance on the ~~OLT draw terminal~~. (3-25-22)()

k. Replace ribbons and ~~on-line draw~~ or instant ticket stock and clear paper jams as required for the ~~OLT draw terminal~~ per the instructions provided by the Lottery. (3-25-22)()

l. Pay, without reimbursement, all electricity charges in connection with the operation of ~~the draw terminal~~. (3-25-22)()

~~10.9.~~ Payment of Prizes by On-Line Draw Retailers. (3-25-22)()

a. ~~An on-line retailer must pay to the ticket bearer on-line games prizes of less than six hundred dollars (\$600) for any validated claims presented to that on-line retailer.~~ These prizes must be paid during all normal business hours of the ~~on-line draw~~ retailer, unless redemption hours differ from normal business hours that have been posted pursuant to Paragraph 204.098.g. of this rule, provided, that the ~~on-line draw~~ system is operational and claims can be validated. (3-25-22)()

b. An ~~on-line draw~~ retailer may pay prizes in cash or by business check, certified check, money order, or any combination thereof. An ~~on-line draw~~ retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of its Lottery contract. (3-25-22)()

~~11.0.~~ Retailer Settlement. (3-25-22)

a. ~~On-line Draw~~ retailers must establish an account for deposit of monies derived from ~~on-line draw~~ games with a financial institution that has the capability of electronic funds transfer (EFT). (3-25-22)()

b. The amount deposited must be sufficient to cover monies due the Lottery. The Lottery will withdraw by EFT the amount due the Lottery on the day specified by the Director. If the day specified for withdrawal falls on a state holiday, withdrawal may be delayed until the next business day. (3-25-22)

~~12. Prize Rights Unassignable. No right of any person to a prize drawn is assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and that any person may be paid the prize to which the winner is entitled pursuant to an appropriate judicial order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule.~~ (3-25-22)

~~13. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or to the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho Law. For purposes of this Subsection the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule.~~ (3-25-22)

~~14. Prizes Payable After Death or Disability of Owner.~~ (3-25-22)

~~a. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be~~

~~payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing of a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings.~~
(3-25-22)

~~b. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee of any prize winnings that are or may be due to a person under a disability including, but not limited to, minority, mental deficiency, physical or mental incapacity.~~
(3-25-22)

~~**15. Discharge of State Lottery Upon Payment.** The state of Idaho, its agents, officers, employees and representatives, the Lottery, its Director, agents, officers, employees and representatives are discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes will be final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy.~~
(3-25-22)

~~**16. Disclosure.** The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions.~~
(3-25-22)

205. BREAKOPEN INSTANT TICKET PULLTAB GAMES.

The Commission hereby authorizes the Director to select and operate ~~breakopen instant ticket~~ pulltab games that meet the criteria set forth in these rules.
(3-25-22)()

01. Definitions. ~~As used in Section 205 of these rules, these terms have the following definitions:~~
(3-25-22)()

a. "Authorized Dispensing Device" means any machine, or mechanism designed for use of vending or dispensing of ~~breakopen instant tickets~~ pulltabs. These devices may include mechanical, electrical, electro-mechanical or other devices approved by the Director of the Lottery pursuant to Section 100 of these rules.
(3-25-22)()

b. "Box" means a group of ~~breakopen instant tickets~~ pulltabs with the same unique serial number.
(3-25-22)()

c. "~~Breakopen Instant Ticket~~Pulltabs" means a single folded or banded ticket or a card, the face of which is initially covered or otherwise hidden from view to conceal numbers or symbols, or both, a few of which numbers or symbols have been designated in advance and at random as prize winners when, for the opportunity to obtain each such folded or banded ticket or card, view the numbers or symbols thereon and possibly obtain a prize, a person pays an established price to a breakopen instant ticket retailer.
(3-25-22)()

d. "~~Breakopen Instant Ticket Game~~" means a group of ~~breakopen instant ticket boxes with the same thematic design and prize structure.~~
(3-25-22)

ed. "~~Breakopen Instant Ticket~~Pulltab Retailer" means any person who has been approved, certified and

contracted with by the Lottery to sell ~~breakopen instant tickets~~ pulltabs. (3-25-22)()

~~fc.~~ **fc.** “~~Breakopen Instant Ticket~~Pulltab Vendor” means any person who produces and provides ~~breakopen instant tickets~~ pulltabs to the Lottery. (3-25-22)()

~~gf.~~ **gf.** “Distributor” means any person who purchases or otherwise obtains authorized dispensing devices for use in ~~breakopen instant ticket~~ pulltab games from any person and sells or otherwise furnishes such device to another person for the resale of or the display or operation of that device. (3-25-22)()

i. As used in these rules, the term “distributor” includes a person who services and repairs authorized dispensing devices, so long as the person performing such servicing or repairs is approved by the distributor or distributor’s representative, and makes no addition to, or modification or alteration of, the authorized device. (3-25-22)

ii. A manufacturer who sells or otherwise furnishes authorized dispensing devices not manufactured by him to any other person for resale or for display or operation of that authorized device is also a “distributor.” (3-25-22)

~~hg.~~ **hg.** “Distributor’s Representative” means any individual who represents a distributor in any of the distributor’s activities in connection with the sale or furnishing of authorized dispensing device for use in ~~breakopen instant ticket~~ pulltab activities. (3-25-22)()

~~ih.~~ **ih.** “Flare” means a vendor-provided informational sign that, at a minimum, displays the prize structure, the serial number of the ~~sleeve~~ box in play, the odds of winning a prize, and the price of the ticket. (3-25-22)()

~~ji.~~ **ji.** “Manufacturer” means any person who assembles from raw materials or subparts a completed authorized dispensing device or pieces of the authorized device for use in ~~breakopen instant ticket~~ pulltab activities and who sells or otherwise furnishes the same to any distributor or retail outlet. (3-25-22)()

~~kj.~~ **kj.** “Manufacturer’s representative” means any person who represents a manufacturer in any one of the manufacturer’s activities in connection with the sale or furnishing of authorized dispensing device for use in ~~breakopen instant ticket~~ pulltab activities. (3-25-22)

~~l.~~ **l.** “Sleeve” is a portion of a box; and is the smallest unit offered. (3-25-22)

02. ~~Breakopen Instant Ticket~~ Pulltab Special Inspection. The Director or authorized representative has the authority to select any ~~breakopen instant ticket~~ sleeve pulltab box and examine the quality and integrity of the ~~sleeve~~ box in any manner, including pulling all chances remaining thereon: Provided, that if the ~~sleeve~~ box so inspected is thereby altered by such inspection in any manner and no defect, alteration, deceptive condition, or other violation is discovered, then the owner shall be reimbursed by the Lottery at the owner’s cost for the ~~sleeve~~ box or portion thereof, and the ~~sleeve~~ box will become the property of the Lottery. Provided further, that for each ~~sleeve~~ box inspected which is found to be defective in any area related to a vendor’s quality control deficiency, a fee may be assessed by the Director against the vendor of the ~~breakopen instant ticket~~ pulltabs. (3-25-22)()

03. ~~Breakopen Instant Ticket~~ Pulltab Operation. (3-25-22)

~~a.~~ **a.** No person under the age of eighteen (18) years is allowed to play or sell any ~~breakopen instant tickets~~. It is the responsibility of the retailer to determine that no unauthorized person is allowed to play or sell ~~breakopen instant tickets~~. (3-25-22)

~~ba.~~ **ba.** No retailer is permitted to display or operate any ~~breakopen instant ticket~~ pulltab that has in any manner been marked, defaced, tampered with or otherwise placed in a condition, or operated in a manner, that may deceive the public or that affects the chances of winning or losing upon the taking of any chance thereon. (3-25-22)()

~~eb.~~ **eb.** All records, reports, receipts and any unsold tickets relating to a ~~breakopen instant ticket~~ sleeve

pulltab box must be retained on the retailer's premises at least ninety (90) days after the sleeve box is removed from play and be made available on demand to representatives of the Idaho Lottery. (3-25-22)(____)

04. ~~Breakopen Instant Ticket Pulltab~~ Price per Play to Be Posted. No ~~breakopen instant ticket sleeve pulltab box~~ may be placed for public play unless the cost to the player for each ticket is clearly posted on the flare. The price per ticket will be determined by the Director. (3-25-22)(____)

05. Claiming of Prizes. Prizes must be redeemed on the same day as purchased at the location where the winning ticket was purchased, and prizes will be awarded in cash or by check. (3-25-22)

06. ~~Limitation on Breakopen Instant Ticket Dispensing.~~ ~~No ticket once placed in an authorized dispensing device out for public play may be removed from the authorized device until the sleeve is permanently removed from public play, except only:~~ (3-25-22)

- ~~a. Those tickets actually played by players;~~ (3-25-22)
- ~~b. Those tickets removed by representatives of the Lottery inspecting the device or sleeve; and~~ (3-25-22)
- ~~e. Those tickets temporarily removed during necessary repair or maintenance of the device. Excepting only tickets removed under Paragraphs 205.06.b. and 205.06.c. of this rule, once a ticket has been removed from public play it cannot again be put out for public play.~~ (3-25-22)

07.6. All Devices Must Comply With Requirements. No retailer may display or put out for play, and no distributor or manufacturer or their representatives may sell or otherwise furnish any device for the dispensing of breakopen instant tickets pulltabs, unless the device is approved for use by the Director, thereby making it an authorized device. (3-25-22)(____)

a. No person may sell or transfer to another person in this state or for use within this state, nor shall place out for public play, any device for the dispensing of breakopen instant tickets pulltabs that is not constructed to allow a consumer to clearly see each ticket within the device before playing the device. (3-25-22)(____)

b. No person may put out for public play any device for the dispensing of breakopen instant tickets pulltabs that is not constructed to provide for at least one (1) sleeve in play in the device. (3-25-22)(____)

c. No person may put out for public play any device for the dispensing of breakopen instant tickets pulltabs that is designed, used, or constructed, in a manner that detracts from the breakopen instant tickets pulltabs or that is deceptive in any way, as determined by the Director. (3-25-22)(____)

08. ~~Breakopen Instant Ticket Pulltab~~ Series Assembly and Packaging. Vendors of ~~breakopen instant ticket pulltab~~ games must manufacture, assemble and package each pulltab game sleeve box in a manner that none of the winning tickets, nor the location or approximate location of any of the winning tickets, can be determined in advance of opening the tickets. All ~~breakopen instant ticket pulltab~~ games must be approved and will be distributed and sold exclusively by the Lottery. The Lottery may adopt quality control standards for the manufacture of breakopen instant ticket pulltab games. (3-25-22)(____)

09. Standards For Flares. The flare advertising prizes available from the operation of any sleeve box of breakopen instant tickets pulltabs must: (3-25-22)(____)

a. Be placed near or upon the upper face, or on the top, of any authorized device used to dispense breakopen instant tickets pulltabs in a manner clearly visible to the public; and (3-25-22)(____)

b. Clearly set out each of the prizes available and the combination of numbers or symbols which win prizes. Each flare describing the prizes and winning number or symbols for a sleeve box of breakopen instant tickets pulltabs in play must clearly set out the sleeve box number assigned to that sleeve box by the vendor. The sleeve box number will be placed upon the flare by the vendor. The total number of tickets originally in the sleeve box will be placed upon the flare by the vendor. (3-25-22)(____)

~~109.~~ **Prize Structure.** The Director will establish a prize structure detailing the estimated number of prizes that are expected to be awarded in each ~~sleeve~~ box and a close approximation of the odds of winning such prizes. (3-25-22)()

~~11.~~ **Retailers Eligible to Sell Breakopen Tickets.** Any person interested in obtaining a contract for a certificate to sell Lottery tickets must file an application on forms provided by the Director that includes, but is not limited to, requiring an applicant's personal, financial, and criminal history, and an authorization to investigate the applicant's criminal and credit history. (3-25-22)

~~12.~~ **Retailer Application and Fee.** All applications to sell breakopen instant tickets must be accompanied by a nonrefundable fee of twenty-five dollars (\$25). If a certificate is awarded to sell only breakopen instant tickets, no additional certificate fee is necessary. (3-25-22)

~~130.~~ **Certificate Modification.** (3-25-22)

a. Certified instant ticket retailers may apply for a certificate modification to allow for the sale of ~~breakopen instant tickets~~ pulltabs. A current instant ticket retailer will be required to complete an additional application or application supplements. If a current instant ticket retailer requests that the existing certificate be modified to allow for the sale of ~~breakopen instant tickets~~ pulltabs, no additional application fee will be charged upon approval. (3-25-22)()

b. ~~Certified breakopen instant ticket retailers may apply for a certificate modification to allow for the sale of instant tickets. A current breakopen instant ticket retailer will be required to complete an additional application or application supplements. If a current breakopen instant ticket retailer requests that the existing certificate be modified to allow for the sale of instant tickets, an additional certificate fee of one hundred dollars (\$100) may be charged upon approval.~~ (3-25-22)

206. -- 299. (RESERVED)

SUBCHAPTER C – CHARITABLE GAMING RULES OF THE IDAHO STATE LOTTERY

300. DEFINITIONS.

~~As used in these rules, each word defined in this Section has the meaning given here unless a different meaning is clearly required from context.~~ (3-25-22)

01. **Audit.** The review of documents or other records pertaining to operation of bingo or raffles, including, but not limited to, ledgers, bank statements, checks and deposit records, nightly logs, receipts, register tapes, computer records, contracts and leases, records showing use of all revenues for charitable activities, and tax records, by representatives of the Lottery, the attorney general, other law enforcement agencies, or independent auditors. (3-25-22)

02. **Autodaubing Features or Autodaubing.** Electronic bingo card daubers, including software or equipment interfaced with electronic bingo cards that automatically daub the numbers as called without requiring the player to manually input the number called. (3-25-22)

03. **Bingo.** The traditional game of chance using a card with five (5) rows and five (5) columns containing numbers from a range of one (1) to seventy-five (75) and played for a prize determined before the game begins, as elaborated in Subsection ~~010-03~~ 300.03.a. of these rules, and other games authorized by Title 67, Chapter 77, Idaho Code, and by these rules, for example, "U-Pick Em." ~~See Section 67-7702(1), Idaho Code.~~ (3-25-22)()

a. **Bingo Cards, Regular.** Regular bingo cards (reusable or disposable) contain five (5) rows and five (5) columns of squares arranged in a five-by-five (5x5) grid; each square is imprinted with randomly placed numbers from a range of one (1) through seventy-five (75), except for the center square, which may be a free space. The letters "B-I-N-G-O" must also be imprinted on the card in order with one (1) letter above each of the five (5) columns (the letter "B" above the first column and so on). (3-25-22)

~~**b.** Bingo Cards, Electronic, or Face. An electronic facsimile of a regular bingo card. See Section 67-7702(6), Idaho Code. (3-25-22)~~

eb. Play Method. Players who have paid consideration for the cards that they are holding compete for a prize by covering numbers on their cards when designators with the same number are randomly drawn and called. The balls or other designators in the selection device are numbered in the same manner as the possible numbers on the bingo cards, from one (1) through seventy-five (75). The winner is the first player to cover a predetermined arrangement of numbers on the players' cards, for example, any row, column or diagonal of the five (5) rows and (5) columns and two (2) diagonals of the bingo card. Upon approval of the Bingo-Raffle Advisory Board there may be other forms of bingo games allowed, such as, but not limited to, Blackouts, Bonanza, and "U-Pick Em" games. The game begins when the first number is called and ends when a player has covered the previously designated arrangement and declares a bingo. Each winning card must be independently verified by a floor worker and another player by calling back the winning combination of numbers in the predetermined arrangement or by entering the serial number printed on the bingo card into an electronic verification system that can verify whether a card is a winner. (3-25-22)

ec. Exclusions from Bingo. Bingo does not include "instant bingo," which is a game of chance played by the selection of one (1) or more prepackaged cards, with the winner determined by the appearance of a preprinted winning designation on the card. (3-25-22)

~~**04.** Bingo Raffle Advisory Board or Board. The board established and appointed according to Sections 67-7702(2), 67-7703, and 67-7704, Idaho Code. (3-25-22)~~

054. **Blackout.** A game of bingo where all numbers are covered on a bingo card. This game is also referred to as "coverall." (3-25-22)

065. **Bonanza.** A game of bingo that is played on a prefolded card or on another kind of card on which the numbers are not revealed until the card is purchased and in which a designated number of balls are emitted from the machine in the usual manner and displayed. If there is no "Bingo" called on these numbers, the game may continue with one (1) additional ball emitted at a time until there is a winner. (3-25-22)

076. **Charitable Contribution Acknowledgment Report Form or CCARF.** A form, prepared by the Director, upon which the recipient of a donation for a charitable purpose must indicate the charitable purpose for which the donation will be used; the name, address, and phone number of the person receiving the donation; and acknowledgement that the recipient will provide any and all information necessary in order for the Director or his representatives to verify that the donation was used for a charitable purpose, as well as any other information needed by the Director to assure that the donation is used for a charitable purpose. ~~See Section 67-7709(2), Idaho Code.~~ (3-25-22)()

~~**08.** Charitable Donation Reporting Form. A form prepared by the Director, upon which each licensed organization shall record all charitable donations made from the proceeds of charitable bingo or raffles held during the license year on which they are reporting. This report shall require the names, addresses, contact person's name, contact person's telephone number, dollar amount and purpose of the donation. This report will be submitted to the Lottery along with the Annual Bingo Report or Annual Raffle Report and will be subject to audit as defined in Subsection 010.01. (3-25-22)~~

~~**09.** Charitable Organization. See definition in Section 67-7702, Idaho Code. (3-25-22)~~

~~**107.** Charitable Purpose. A purpose of supporting a bona fide charitable organization, as defined by Section 67-7702(3), Idaho Code. The advancement of a religious, charitable, civic, scientific testing, public safety, literary or educational purposes or for purchasing, constructing, maintaining, operating or using equipment or land, or a building or improvements thereto, owned, leased or rented by and for the charitable or nonprofit organization and used for a civic purpose or made available by the charitable or nonprofit organization for use by the general public from time to time, or to foster amateur sports competition, or for the prevention of cruelty to children or animals. (3-25-22)()~~

- ~~108.~~ **Concessions.** Food and beverages or other incidental items (for example, caps or tee-shirts) unrelated to gaming that are sold to players at bingo games. (3-25-22)
- ~~1209.~~ **Disposable Paper Bingo Card.** A non-reusable, paper bingo card. (3-25-22)
- 130. Distributor.** Any person who purchases or otherwise obtains or supplies equipment for use in conducting gaming activities, including, but not limited to, bingo or raffles, from any person or entity, and sells or otherwise furnishes such equipment or supplies to any person or entity who engages in gaming activity. (3-25-22)
- ~~14. Duck Race.~~ ~~A charitable raffle as defined in Section 67-7702(5), Idaho Code.~~ (3-25-22)
- ~~15. Electronic Bingo Device.~~ ~~An electronic device used to monitor bingo games as defined by Section 67-7702(7), Idaho Code. Electronic bingo devices may be used to monitor bingo cards (“mind cards”) only if they meet the requirements of Section 67-7702(7)(a), Idaho Code. No devices described in Section 67-7702(7)(b), Idaho Code, can be lawfully used in a bingo operation.~~ (3-25-22)
- 161. Electronic Gaming Devices.** Gaming or gambling devices electronically operated by inserting a coin or token and then pulling a handle or pushing a button to activate the game. Electronic gaming devices can generate points or payout slips for accumulated wins. (3-25-22)
- ~~17. Gaming.~~ ~~Gambling as defined in Section 18-3801, Idaho Code, including gaming authorized by Title 67, Chapters 74 and 77, Idaho Code.~~ (3-25-22)
- ~~18. Gross Revenues.~~ ~~See definition in Section 67-7702, Idaho Code.~~ (3-25-22)
- ~~a. For Bingo. All moneys paid by players during a bingo game or session of play bingo, including fees for use of electronic bingo cards or electronic bingo devices, but excluding money paid for concessions. Gross revenues are calculated before any deductions for prizes or other expenses.~~ (3-25-22)
- ~~b. For Raffles and Other Gaming Authorized by Title 67, Chapter 77, Idaho Code. All moneys or other value paid to or due to any operator of a raffle or other gaming authorized by Title 67, Chapter 77, Idaho Code, activity for any chance taken or other fees for participation in the raffle or other gaming activity. Gross revenues are calculated before any deductions for prizes or other expenses.~~ (3-25-22)
- 192. Hard Bingo Cards.** Reusable bingo cards with sliding windows or shutters to cover the numbers on the cards. Hard cards are legal in sessions with less than ten thousand dollars (\$10,000) of annual gross revenue or for special occasions. (3-25-22)
- ~~20. Host System.~~ ~~See definition in Section 67-7702, Idaho Code.~~ (3-25-22)
- ~~213.~~ **Instant Bingo.** A Lottery game played by the use of premarked cards which, when opened, scratched or otherwise revealed, determine whether the cardholder is a winner without any competition among players. “Instant Bingo” is not a game of “Bingo” as defined by these rules. (3-25-22)
- ~~2214.~~ **License.** A permission issued by the Director of the Lottery to operate bingo games or raffles or to manufacture, sell, distribute, furnish or supply gaming machines, equipment or material. (3-25-22)
- ~~2315.~~ **Licensed Game Operator.** A person who qualifies as a nonprofit or charitable organization who may operate bingo or raffles and who is licensed pursuant to Section 67-7711, Idaho Code. (3-25-22)
- ~~2416.~~ **Licensed Vendor.** A person who manufactures, sells, distributes, furnishes or supplies gaming machines, equipment or material who is licensed pursuant to Section 67-7715, Idaho Code. (3-25-22)
- ~~2517.~~ **Manufacturer.** Any person who fabricates or assembles a completed piece of gaming equipment or pieces of gaming equipment, or supplies completed gaming equipment, or pieces of gaming equipment for use in gaming activities, including, but not limited to, bingo and raffles, and who sells or otherwise furnishes the completed gaming equipment or pieces of gaming equipment to any distributor, operator, or retail outlet. (3-25-22)

- ~~26. **Net Proceeds of a Charitable Raffle.** The gross revenues of a charitable raffle less the cost of prizes awarded. Net proceeds of a duck race mean gross revenues less the cost of prizes awarded and the rental cost of the ducks used in the race (if there are rental costs). See Section 67-7710(3), Idaho Code. Donated prizes are considered to have no cost and do not reduce the receipts when calculating net proceeds. (3-25-22)~~
- ~~27. **Nonprofit Organization.** See definition in Section 67-7702, Idaho Code. (3-25-22)~~
- ~~28~~**18. **Organization.** A charitable organization or a nonprofit organization. (3-25-22)**
- ~~29. **Raffle.** An event in which prizes are won by random drawings or other selections of a ticket, duck or other means of identifying the one (1) or more persons purchasing chances. See Section 67-7702(14), Idaho Code. Duck races are a form of raffles. See Sections 67-7702(5) and 67-7702(9), Idaho Code. (3-25-22)~~
- ~~30~~**19. **Reusable Bingo Cards.** Bingo cards constructed out of a durable material that use sliding windows or shutters or chips to cover the numbers and that can be reused from one (1) game to another. (3-25-22)**
- ~~31. **Separate Bank Account.** A bank account in the name of, and controlled by, a charitable or nonprofit organization established for purposes of complying with the accounting requirements of Section 67-7709(1), Idaho Code, regarding accounting for revenues and disbursements for bingo operations. All gross revenues received in connection with licensed bingo games must be placed in the separate bank account. Concessions and other moneys received (if any) from non-gaming revenues should not be deposited in the separate bank account. (3-25-22)~~
- ~~32. **Session.** A period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization. See Sections 67-7702(15) and 67-7708, Idaho Code. (3-25-22)~~
- ~~33. **Site System.** See definition in Section 67-7702, Idaho Code. (3-25-22)~~
- ~~34~~**20. **Tracking.** The documentation of sales by sequentially numbered bingo paper or numbered tickets in raffles. See Section 67-7709(3), Idaho Code. (3-25-22)(____)**
- ~~35~~**21. **U-Pick Ems.** A game where players select their own numbers on a two (2) part duplicated bingo card. One (1) copy is retained by the player and used as a bingo card. Numbers are called until there is a winner. The winner is determined by the first player to cover the numbers on a “U-Pick-Em” card. (3-25-22)**
- ~~36. **Vendor.** See definition in Section 67-7702, Idaho Code. (3-25-22)~~

SUB AREA: CONDUCT OF BINGO GAMES

301. BINGO BY CHARITABLE OR NONPROFIT ORGANIZATIONS.

All organizations operating bingo games, whether licensed or unlicensed, must abide by these rules. It is unlawful to conduct bingo sessions or bingo games in violation of Title 67, Chapter 77, Idaho Code, or in violation of these rules, and persons doing so may be subject to administrative, civil or criminal penalties. ~~See Section 67-7707, Idaho Code. Sections 301 through 306 of these rules apply to all bingo operators. Sections 307 through 310 of these rules apply to operators using paper bingo cards. Sections 311 through 313 of these rules apply to operators using electronic bingo machines, as defined in Section 311 of these rules. Sections 306 through 309 of these rules apply to all bingo operators. (3-25-22)(____)~~

~~302. **NUMBER OF SESSIONS PER WEEK**~~**DEFINING A BINGO SESSION.**

~~Licensed operators of bingo games are limited to a maximum of three (3) bingo sessions per any calendar week (Sunday-Saturday). None of these sessions may exceed eight (8) consecutive hours in any one (1) day. See Section 67-7708, Idaho Code. A session is determined by the sale of paper for a continuous series of bingo games offered for a predetermined period of time. For special sessions it is permissible to extend the hours past midnight, but all hours past midnight up to 2 a.m. on the following day will count as hours for the day during which the session started. (3-25-22)(____)~~

303. POSTING OF LICENSE AND HOURS.

The organization's current charitable gaming license issued by the Lottery must be displayed during bingo games and bingo sessions in plain view for all players and interested persons. Lottery Gaming Rules must be kept on site and available during all sessions. Days/hours of operation must be posted in plain view for all players and interested persons. If days or times change, it is the responsibility of the organization to provide written notice to the Lottery. House rules pertaining to bingo must be posted in plain view for all players and interested persons. (3-25-22)

304. MEMBERS OF ORGANIZATION IN ATTENDANCE -- TRAINING OF EMPLOYEES.

At least one (1) member or representative of the licensed organization must be in attendance at each session of bingo to supervise all bingo-related activities of a licensed organization. ~~See Section 67-7711(3), Idaho Code.~~ All bingo game employees, volunteers, and managers of all organizations, whether licensed or unlicensed, must be trained in the proper conduct of the game and the control of funds. (3-25-22)()

305. EMPLOYEES INELIGIBLE TO PLAY.

All bingo game employees and managers are prohibited from playing in any game or in any session for which the employee or manager takes part as employee or manager. There should be no conflict of interest perceived by the public. (3-25-22)

306. MINORS.

~~Persons under the age of eighteen (18) years are prohibited from playing bingo in a game in which a cash prize is offered, or where the prize exceeds twenty-five dollars (\$25) in value for merchandise, or where any merchandise is redeemable, in whole or in part, for cash. See Section 67-7707(2), Idaho Code.~~ Bingo operators may allow minors to work in a bingo game or session as per local house rules. (3-25-22)()

307. TRACKING REQUIREMENTS IN GAMES USING PAPER BINGO CARDS.

01. Bingo Paper—~~For Whom Required.~~ ~~All licensed organizations operating bingo sessions that use paper bingo cards and all organizations exempt from licensing under Section 67-7713, Idaho Code, that use paper bingo cards must track their bingo sales for each session by using sequentially numbered/colored bingo paper. Each such organization must keep a ledger of the numbers of all bingo papers used.~~ The non-reusable colored paper cards must be manufactured sold with a pre-printed series and a pre-printed serial number on each card. These cards may be assembled in multiple card sheets, single sheets, or packets. A sequential series and serial number must be printed on each individual card. (3-25-22)()

02. Tracking by Game For Bingo Paper. The tracking may vary according to games sold at each session (packets, specials, singles, six (6) ons, three (3) ons, etc.) and may be designated by game name or color of paper. (3-25-22)

03. Tracking By Bingo Paper Packet. If sales are completed by packet, then those packets must not be separated for sale as singles. Individual games or packets sold must be recorded sequentially for effective tracking. The tracking records must be retained with permanent records. Tracking records are not required to be submitted with the Annual Bingo Report form. (3-25-22)

04. Late Players When Bingo Paper Used. Packets of bingo paper sold to late players must have the previously played games sheets removed and voided. The tracking must account for sheets removed and voided. (3-25-22)

05. Designation of Bingo Paper Color For Games. Each game is assigned a particular color of paper card. Other colors will not be accepted. (3-25-22)

06. ~~Documentation For Bingo Paper.~~ ~~All bingo paper must be tracked as either sold, damaged, donated, or omitted from the original distributor or manufacturer. Invoices from the distributor or manufacturer and other documentation of transactions involving bingo funds must be kept with the records for that bingo operation. Operators may contact the Lottery Security Division for clarification concerning proper documentation to track sold, damaged, donated, or omitted bingo paper.~~ (3-25-22)

308. DUTIES OF BINGO CALLER AND EMPLOYEES OR VOLUNTEERS IN GAMES USING PAPER BINGO CARDS.

01. Pre-Game Duties. Before selecting or calling the first number in any game, the bingo caller must check the machine and balls for defects. This can be done by running all of the balls through the machine and placing them in their assigned slots to determine that there is one (1) ball for each number and only one (1) ball for each number. The caller will draw numbers for the Bonanza, Progressive or Hot Ball games if used and verified by a player. The caller must announce the color of paper card assigned to each game, the pattern or arrangement of squares to be covered to win the game, and the prize amount. (3-25-22)

02. Displaying Numbers During Play. Each time that a number is selected, the bingo caller must display the ball or other designator in a receptacle to prevent it from being placed back into the selection pool. If electronic display boards are used the placement of the selected ball should activate the number or if not, the operator is required to manually activate each number on the board. (3-25-22)

03. End of Game. After a winner has been verified as set forth in Section ~~408~~ 309 of these rules, the caller must ask if there are additional winners. After asking for and verifying whether there are additional winners, the game is declared to be completed, and the ball machine must be cleared for the next game. (3-25-22)()

309. DETERMINING WINNERS WHEN A PLAYER USING A PAPER BINGO CARD CLAIMS TO BE A WINNER.

01. Winning Cards. A winning card is a card upon which the numbers drawn by the caller cover the previously designated arrangement of winning squares. (3-25-22)

02. Player's Responsibility. It is the player's responsibility to notify the game operator or caller that the player has a winning card by yelling "bingo" loud enough for the caller to hear the player. (3-25-22)

03. Game Stops to Verify Winner. When a player announces a winning card, the game must stop for winner verification before the next number is selected. The game must be secured so that it can be continued if the declaration of a winning bingo card is incorrect. If a player mistakenly announces a winning card and the card is not a winner, the game proceeds until a winner is declared. (3-25-22)

04. Verification of Winning Card. To verify a winning card a bingo operator's employee or volunteer must call back the combination of numbers in the assigned pattern and the color of the paper card. The caller must verify the numbers called back. Electronic verifying devices may be used by entering the serial number of the winning card. A monitor must reveal the card and the winning pattern to verify its status as a valid bingo or an invalid bingo. Once a winner is declared the caller must announce "one (1) good winner" or "two (2)" or more if it applies to the game. (3-25-22)

05. Prizes For Multiple Winners. If more than one (1) winner is declared, cash prizes must be divided equally, and merchandise prizes of equal value awarded. (3-25-22)

310. MISCELLANEOUS RULES FOR GAMES USING NON-ELECTRONIC BINGO CARDS.

01. Hard Cards. Unlicensed charitable or nonprofit organizations with an annual gross bingo revenue of ten thousand dollars (\$10,000) or less may use hard cards. A licensed organization may request a special one (1) time use of hard cards for community fund-raising projects that it is sponsoring. No hard cards are allowed to be reserved for any players, with the exception of Braille cards. (3-25-22)

02. Braille Cards. Braille cards are allowed in any bingo game for use by individuals who need them. (3-25-22)

03. Two Part Disposable Cards. Two (2) part disposable cards may be used in "U-Pick-Em" games, if: (3-25-22)

a. Original and Duplicate Copies. The cards are printed on two (2) part, self-duplicating paper that

provides for an original and duplicate copy; (3-25-22)

b. Operating Controls. Players mark their numbers on each card in a distinct, clear and legible manner before separation of the duplicate and original card, and operators establish and set forth in plain view house rules setting out any conditions by which an entry may be added, deleted or changed before separation, and changes are verified by a worker authorized by the bingo manager; and (3-25-22)

c. Retention and Play of Duplicate Copy. The player retains and plays the duplicate copy, and all winning cards and their duplicate copies are retained by the operator as part of the operator's daily bingo records. (3-25-22)

04. Card-Minding Devices. Card-minding devices are prohibited unless they meet the requirement for allowable electronic bingo devices set forth in Section 67-7702(7)(a)(i) through 67-7702(7)(a)(iv), Idaho Code. (3-25-22)

~~**05. Autodaubing Features.** Autodaubing features are prohibited. (3-25-22)~~

~~**06.5. Use of Nonreusable Cards.** With the exception of Braille bingo cards authorized for use pursuant to Subsection 310.02 of these rules, every organization that uses nonreusable paper bingo cards must use only nonreusable colored bingo paper or electronic bingo paper so that all sales can be tracked. ~~Nonreusable colored bingo paper must have a series and serial number on each card. After each bingo session, an organization using nonreusable bingo paper must track its bingo sales for that session by recording the series and serial numbers of all paper sold, damaged, donated, used for promotion, or omitted by the manufacturer or distributor. See Section 67-7709(3), Idaho Code.~~ (3-25-22)()~~

311. BINGO OPERATIONS USING ELECTRONIC BINGO MACHINES.

01. Electronic Bingo Machines Defined. Electronic bingo cards, electronic bingo devices, host systems, or site systems are individually and collectively called electronic bingo machines in these rules. (3-25-22)

02. Use of Approved Hardware and Software. All organizations that offer or use any electronic bingo machines during play must use hardware or software, or both, approved by the Commission, provided that printers used in connection with site systems may be obtained from any source. ~~See Sections 67-7716 and 67-7719(1), Idaho Code.~~ (3-25-22)()

03. List of Approved Hardware and Software. The Director will maintain a list of approved hardware and software for electronic bingo machines and promptly update the list after any changes. (3-25-22)

04. Requirements For Approved Site Systems. All site systems licensed by the Commission must have the ability to track, either with or without input from the bingo game's operators, the number of games played that are connected to the site system, revenue from the games played that are connected to the site system, the number of winners who are connected to the site system, and the distribution of cash and merchandise prizes to winners connected to the site system for each session played using the site system. (3-25-22)

05. Inspection and Testing. All electronic bingo machines used by bingo game operators and all records that the electronic bingo machines generate must be available to be inspected or tested, or both, to determine whether the electronic bingo machines are properly functioning. ~~Any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative, is authorized to conduct an inspection and testing. See Sections 67-7717(8) and 67-7717(9), Idaho Code.~~ (3-25-22)()

06. Pre-Game Testing. The Director or Lottery Security Division may by letter or other written communication prescribe appropriate pre-game testing procedures for electronic bingo machines as in their judgment are necessary for the particular hardware and software used. (3-25-22)

312. REQUIREMENTS FOR BINGO GAME OPERATIONS USING ELECTRONIC BINGO MACHINES.

01. Maximum Number of Faces. Electronic bingo devices are hereby prohibited from monitoring more than ~~fifty four~~ one hundred eight (54108) faces (electronic bingo cards) per game. All electronic bingo devices are required to be restricted by their hardware or software so that they can monitor no more than ~~fifty four~~ one hundred eight (54108) faces per game. See Section 67-7717(1), Idaho Code. (3-25-22)()

02. Identification Number. Every electronic bingo device that requires a site system to download electronic bingo cards to the device must comply with the requirements of Section 67-7717(2), Idaho Code, concerning identification numbers. (3-25-22)

03. Erasing Numbers. Every electronic bingo device must be programmed to erase electronic bingo cards and bingo card face numbers after a session has been completed, as required by Section 67-7717(3), Idaho Code. (3-25-22)

04. Players Cannot Choose Numbers. No electronic bingo device that allows bingo players to design their own bingo cards by choosing, rearranging, or placing numbers on a card is permitted. See Section 67-7717(4), Idaho Code. (3-25-22)

05. Connections to Site System. Site systems are prohibited from engaging in sales, voids, or reload transactions for an electronic bingo device unless the device is connected to and communicating with the site system. See Section 67-7717(5), Idaho Code. (3-25-22)

06. Printouts. Site systems must be electronically connected to an on-site printer that upon request is capable of printing a transaction log for each player that shows the device identification number and all bingo cards and face numbers loaded into the device. The site system must be able to record and print on-site a receipt showing the device identification number, the date of the bingo session, the number of electronic bingo cards purchased or loaded, and the total amount charged for each of the electronic bingo cards. This receipt must be given to the player on request or as required by any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative. See Section 67-7717(6), Idaho Code. The site system must be connected to an on-site printer that can print the winning game combinations on demand for the entire bingo session. See Section 67-7717(7). (3-25-22)

07. Malfunctioning Electronic Bingo Machines. (3-25-22)

a. Whenever the Lottery or any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative, detects or discovers a malfunction or other problem with an electronic bingo machine that could affect the security or integrity of a bingo game or of an electronic bingo machine, every bingo operator using such a malfunctioning electronic bingo machine must discontinue its use as directed by a representative of the Lottery or correct the malfunction or other problem as directed by a representative of the Lottery. Failure to take the directed action may result in confiscation or seizure of the electronic bingo machine that is malfunctioning or has other problems. See Section 67-7717(8), Idaho Code. (3-25-22)

b. Whenever a manufacturer, a distributor, a licensed bingo operation, a player, or any other person detects or discovers a malfunction or other problem with an electronic bingo machine that could affect the security or integrity of a bingo game or of an electronic bingo machine, every bingo operator using such a malfunctioning electronic bingo machine must discontinue the use of that electronic bingo machine and notify the Commission by telephone no later than the next working day of the action taken and the nature of the malfunction or other problem. The Commission may request further written explanation as necessary. See Section 67-7717(9), Idaho Code. For purposes of this paragraph, notification to an officer or employee of the Lottery Security Division will be considered notification to the Commission. (3-25-22)

08. Receipts. The cash register or the site system must provide a receipt for the sale of all bingo cards used in conjunction with an electronic bingo device. Additional paper bingo cards must be separately receipted. The cash register receipt and the player's receipt must identify and show the sale of disposable paper bingo cards separately from receipts for electronic bingo cards. See Section 67-7719(12), Idaho Code. (3-25-22)

313. PLAY USING ELECTRONIC BINGO MACHINES.

01. No Player Owned Devices. Use of player owned electronic bingo devices is prohibited. See

~~Section 67-7719(2), Idaho Code.~~

~~(3-25-22)~~

~~**02. Provision of Devices.** Only the bingo game operator can provide electronic bingo devices. The operator may charge for the use of an electronic bingo device. If there is a charge for use of an electronic bingo device, the fee must be separately stated on the cash register and the bingo player's receipt and be included in the gross revenues. See Section 67-7719(3) and (11), Idaho Code.~~

~~(3-25-22)~~

~~**03. Use of Devices On Premises.** A player using an electronic bingo device must be on the premises during play to be eligible to play bingo or to win a prize. See Section 67-7719(3), Idaho Code.~~

~~(3-25-22)~~

~~**04. Available Devices.** Electronic bingo devices must be made available on a first come, first served basis, and no device can be reserved for any player, except a device may be reserved for players with a disability (within the meaning of the Americans with Disabilities Act) if the disability would restrict or impair the player's ability to mark bingo cards. A bingo game operator may provide and reserve electronic bingo devices exclusively for persons with disabilities and forbid their use by all other persons. See Section 67-7719(5), Idaho Code.~~

~~(3-25-22)~~

~~**05. One Device Per Player.** It is prohibited for any player to use more than one (1) electronic bingo device at a time. See Section 67-7719(6), Idaho Code. No electronic bingo device can be used to monitor hard bingo or shutter cards. See Section 67-7719(7), Idaho Code.~~

~~(3-25-22)~~

~~**061. Reserve Devices.** Every bingo game operator using electronic bingo devices must keep at least one (1) electronic bingo device in reserve as a backup in case a device in use malfunctions. See Section 67-7719(4), Idaho Code. A reserve device is not considered an available device under Subsection 302.04 of this rule. If a reserve device is put in use to replace a malfunctioning electronic bingo device, and if there are no more unused electronic bingo devices available to serve as a reserve device, the operator is not required to take an electronic bingo device from a player that is then using the device in order to maintain a reserve device, and the operator may continue to offer bingo games without a reserve device throughout the remainder of the session, unless one (1) or more electronic bingo devices are turned in before the session ends, in which case a device that was turned in will then become the reserve device.~~

~~(3-25-22)()~~

~~**07. Loading Electronic Bingo Devices.** A bingo operator using an electronic bingo device is prohibited from downloading electronic bingo cards into an electronic bingo device before payment by the player. The player must be on the bingo operator's premises when the device is downloaded with electronic bingo cards. The device can only be downloaded with electronic bingo cards during the session. See Section 67-7719(10), Idaho Code. Players are prohibited from choosing or rejecting individual electronic bingo cards loaded into an electronic bingo device. See Section 67-7719(8), Idaho Code.~~

~~(3-25-22)~~

~~**08. Additional Paper Cards.** When a player who has purchased fifty four (54) bingo cards per game is using an electronic bingo device to monitor up to fifty four (54) cards, a bingo operator may allow the player to purchase additional disposable paper bingo cards to play using a manual daubing or marking method. See Section 67-7719(9), Idaho Code.~~

~~(3-25-22)~~

~~**092. Other Requirements.** The Director or the Director of Lottery Security, or his designee may by letter or other written communication prescribe appropriate procedures for play and determination of winners and other matters generally covered by Sections 307 through 309 of these rules for paper bingo cards whenever it is necessary to do so in conjunction with the use or playing characteristics or other attributes of a given hardware or software. These letters are public records within the meaning of Title 74, Chapter 1, Idaho Code.~~

~~(3-25-22)~~

~~**314. MAXIMUM PRIZES.**~~

~~Maximum prizes are defined in Section 67-7708, Idaho Code.~~

~~(3-25-22)~~

~~**314. -- 315. (RESERVED)**~~

~~**316. LIMITS ON BINGO OPERATION'S PRIZE PAYOUT RATIOS AND ADMINISTRATIVE EXPENSES.**~~

~~**01. Applicability.** All organizations conducting bingo games, whether licensed or unlicensed, must~~

adhere to the required limits of statute and of this rule in dedicating their gross revenues from bingo operations. These limits or percentages, or both, pertain to annual gross revenues during a twelve (12) month license year. ~~See Section 67-7708, Idaho Code.~~ (3-25-22)()

02. Donated Merchandise. Donated merchandise offered as prizes is not included in the prize amounts paid out when calculating the prize payout ratio. The organization conducting the bingo game must document the value of the donated items, describe the donated items, and list the donated items on the daily reports as prizes. (3-25-22)

03. Donated Cash Funds Prohibited. Donated cash may not be offered as prizes in bingo games nor deposited into the separate bingo account. (3-25-22)

~~**317. PAYMENT OF EXPENSES, WINNINGS, AND CHARITABLE CONTRIBUTIONS.**~~

~~All payments for expenses and donations for charitable purposes must be paid by check from the Separate Bank Account and recorded in the bingo operation's general ledger. See Section 67-7709, Idaho Code.~~ (3-25-22)

~~**318.7. MINIMUM CHARITABLE OR NONPROFIT DONATION.**~~

~~A minimum of twenty percent (20%) of annual gross revenues of a bingo operation must be paid to a charitable or nonprofit organization to be used for charitable purposes. The licensed bingo operation must maintain records showing the charitable activities to which the proceeds are applied. See Section 67-7709, Idaho Code. Organizations are permitted and encouraged to donate more than twenty percent (20%) of their gross revenues from bingo operations to charitable or nonprofit organizations to be used for charitable purposes. No part of this twenty percent (20%) can be used, whether directly or indirectly, for any bingo expense.~~ (3-25-22)()

~~**319.8. MAXIMUM PRIZES.**~~

~~By this rule the Commission exercises its authority over maximum prizes are set forth in Section 67-7708, Idaho Code.~~ (3-25-22)

01. Maximum Prize For One Game. The maximum prize in cash and merchandise that may be offered for any one (1) bingo game is three thousand dollars (\$3,000). (3-25-22)

02. Maximum Prizes For One Session. The total of the maximum prizes in cash and merchandise that may be offered at any one (1) bingo session is twenty-five thousand dollars (\$25,000). (3-25-22)

~~**319. -- 320. (RESERVED)**~~

~~**321. ACCOUNTING AND REPORTING REQUIRED.**~~

~~Every organization conducting bingo games, whether licensed or unlicensed, must comply with the accounting requirements of Sections ~~42~~ ~~321~~ through ~~426~~ ~~326~~ of these rules.~~ (3-25-22)()

~~**322. SEPARATE BANK ACCOUNT AND LIMITATIONS ON USE.**~~

~~**01. Establishment of Account.** All net proceeds received in connection with a bingo game required to be licensed under Title 67, Chapter 77, Idaho Code, and by these rules must be placed in a Separate Bank Account. See Section 67-7709(1), Idaho Code. Only bingo funds generated from bingo games may be distributed as prizes, administrative expenses, or charitable/nonprofit donations.~~ (3-25-22)()

~~**02. Disbursements Use of Funds.** All disbursements must be documented as defined in Section 67-7709(1), Idaho Code, and by these rules.~~ (3-25-22)

~~**323. GENERAL LEDGER.**~~

~~**01. Establishment of General Ledger.** A general ledger must be established to account separately for the bingo operation and track all transactions for the funds generated from bingo.~~ (3-25-22)

~~**02. Documentation.** The accounting of revenues from sales of bingo cards or other entry fees and all disbursements must be documented. The accounting should include, but not be limited to, total prize payouts per~~

session, and bingo related expenses per session, charitable contributions per session, wages, date and purpose or payee for each entry. (3-25-22)

03. Annual Report. Copies of general ledgers and the Charitable Contribution Acknowledgement Report Form must accompany the Annual Bingo Report filed with the Lottery. ~~Copies of the Charitable Contribution Acknowledgement Report Forms and Charitable Donation Reporting Form shall also accompany the Annual Bingo Report.~~ All disbursements shall be recorded in the general ledger. (3-25-22)()

~~**04. Retention of Records.** An accounting of all gross revenues and disbursements required by statute and these rules must be retained in records with the organization for a period of five (5) years, including the date and amount of each transaction, as well as the name and address of each payee for all prize payments exceeding one hundred dollars (\$100). A copy of each CCARF and the Charitable Donation Reporting Form shall be retained in permanent records of the organization. (3-25-22)~~

324. ANNUAL REPORT.

01. When Due. Every licensed charitable or nonprofit organization conducting bingo games shall prepare an annual report within thirty (30) days after the close of its license year and file the annual report with the Lottery. ~~See Section 67-7709(2), Idaho Code.~~ (3-25-22)()

02. Information Required By Forms. The nightly reports, receipts, winner records, and payouts must be documented and kept with the organization's records for five (5) years along with any further information required by the forms prescribed by the Lottery pursuant to statute and rule. (3-25-22)

~~**03. Independent Audit.** Organizations that exceed two hundred thousand dollars (\$200,000) in annual gross revenue from bingo games, raffle events, or bingo games and raffles combined must submit an independent audit performed by a certified public accountant licensed in Idaho and who meets peer review requirements set forth by the Idaho State Board of Accountancy. This independent audit must be submitted within ninety (90) days of the end of the licensed organization's license year. (3-25-22)~~

325. RECORDS OF PRIZE DISBURSEMENTS.

~~Organizations conducting bingo games must record names and addresses of winners for prize disbursements exceeding one hundred dollars (\$100). Any prizes exceeding one thousand one hundred ninety-nine dollars (\$1,199) must have a W2-G on file for a gaming income for these amounts as required by the Internal Revenue Service. See 26 U.S.C. Section 6041 and 26 CFR 7.6041-1 and 35a.9999-3 (question and answer 19). (3-25-22)()~~

326. ACCOUNTING OF REVENUES AND EXPENSES.

01. Deposit of Receipts. Bingo funds received in check form must be payable to the organization. All funds must be deposited in a Separate Bank Account. (3-25-22)

02. Ledger Entries and Receipts For Expenses. All ledger entries must track disbursements of cash and checks with expenses documented with receipts. The receipts shall include the payee's name and address, date, and an authorized signature from the licensed organization. (3-25-22)

03. Recording of Wages. Wages paid must be recorded on expense records as gross amounts before withholding of taxes or other withholding and net amount paid, with each item of withholding shown. Wages paid must be documented with copies of pay stubs, or other records showing gross wages and withholding. (3-25-22)

04. Submission With Annual Report. Copies of ledgers containing the documentation of all transactions must be submitted with the Annual Bingo Report. Inventory tracking of sequentially numbered paper must be retained in records for a period of five (5) years and kept available for examination. All documents must be legible and compiled in an orderly manner. (3-25-22)

~~**327. INSPECTION OF FINANCIAL RECORDS AND DOCUMENTS.**~~

~~All financial records and documents of an organization shall be kept as required by these rules and be open to inspection by the county sheriff of the county where the bingo games were held, the chief of police of the city where~~

~~the bingo games were held, the prosecuting attorney of the county where the bingo games were held, the Attorney General or the Lottery, or any of their agents, at reasonable times and during reasonable hours. All records must be kept for five (5) years. (3-25-22)~~

~~3287.~~ -- 399. (RESERVED)

SUB AREA: CONDUCT OF RAFFLES

400. REQUIREMENTS FOR ORGANIZATIONS CONDUCTING RAFFLES.

All organizations conducting raffles, whether licensed or unlicensed, must abide by these rules. It is unlawful to conduct raffles in violation of Title 67, Chapter 77, Idaho Code, or in violation of these rules, and persons doing so may be subject to administrative, civil or criminal penalties. ~~See Section 67-7710, Idaho Code. (3-25-22)(____)~~

~~401. LIMITATION ON ANNUAL NUMBER OF RAFFLES.~~

~~Charitable or non-profit organizations are limited to conducting twelve (12) raffle events per year, provided that this limitation shall not apply to public or private elementary or secondary schools located in the state. See Section 67-7710(2), Idaho Code. (3-25-22)~~

~~4021. OWNERSHIP OF PRIZES.~~

~~Organizations must be able to substantiate ownership of all prizes or other legally enforceable rights to obtain the prizes to be offered in a raffle prior to advertising or selling tickets for such prizes. Proof of ownership of prizes or other legally enforceable rights to obtain prizes must be provided to the Lottery upon request. (3-25-22)~~

~~403. MAXIMUM PRIZES.~~

~~The maximum aggregate value of cash prizes that may be offered or paid for any single raffle event, which is not a duck race, is one thousand dollars (\$1,000). There is no limit on the maximum value of merchandise that may be offered as raffle prizes if the merchandise is not redeemable for cash. There is no limit on the maximum amount of the aggregate cash prizes for a duck race if the cash prize is underwritten by insurance, otherwise the maximum aggregate cash prize for a duck race is one thousand dollars (\$1,000). There is no limit on the maximum value for the merchandise used as prizes for a duck race if the merchandise is not redeemable for cash. See Section 67-7710(2), Idaho Code. (3-25-22)~~

~~4042. REQUIREMENTS FOR DONATION TO CHARITY -- LIMITATION ON EXPENSES.~~

~~At least eighty percent (80%) of the net proceeds from sales of raffle tickets or chances and duck races must be donated to a charitable or nonprofit organization to be used for a charitable purpose. (Net proceeds are defined in Subsection 301.30 of these rules.) The name and address of the charitable or nonprofit organizations awarded these funds must be listed on the annual raffle report submitted to the Lottery. The annual raffle report must also include the charitable purpose for which the charitable donation was used by the charitable organization or nonprofit organization. The name, address, and charitable purpose of the charitable or nonprofit organization awarded these funds must be listed on the Charitable Contribution Acknowledgement Report Form and submitted with the Annual Raffle Report to the Lottery. A maximum of twenty percent (20%) of net proceeds is allowed for expenses. ~~See Section 67-7710(3), Idaho Code. (3-25-22)(____)~~~~

~~4053. GENERAL LEDGER AND RECORDKEEPING.~~

~~Every organization conducting a raffle event must establish a general ledger for the raffle. The organization must keep records that show the total number of tickets or chances sold, the revenues from tickets or chances sold, the expenses of conducting the raffle, and the prizes for each raffle. (3-25-22)~~

~~4064. ANNUAL RAFFLE REPORT.~~

~~Every licensed organization conducting a raffle shall prepare an annual raffle report and Charitable Donation Report Contribution Acknowledgement Report Form and submit both reports to the Lottery within thirty (30) days after the close of its license year. ~~See Section 67-7710, Idaho Code. (3-25-22)(____)~~~~

~~407. INDEPENDENT AUDIT OF LARGE RAFFLES.~~

~~Every charitable or non-profit organization whose gross annual revenues exceed two hundred thousand dollars (\$200,000) from the operation of raffles shall provide the Commission with a copy of an annual report of raffle events. The audit shall be performed by a certified public accountant licensed in Idaho and who meets the peer review~~

~~requirements set forth by the Idaho State Board of Accountancy. The audit must be submitted within ninety (90) days after the end of the organizations license year. (3-25-22)~~

~~408~~**5.** -- 499. (RESERVED)

**SUB AREA: LICENSING AND LICENSE FEES FOR ORGANIZATIONS
CONDUCTING BINGO GAMES OR RAFFLES**

500. APPLICATION.

~~All persons required by statute and by these rules to obtain a license before operating a bingo game or conducting a raffle must pay the license fees and apply for and receive a license under the rules in this sub area. See Section 67-7711(1), Idaho Code. (3-25-22)~~

501. LICENSE FEES.

~~Each organization that applies to the Lottery for a license under these rules shall pay annually to the Lottery a nonrefundable license fee that is due upon submission of the application. An application approved by the Lottery, complete with all required information, must be submitted along with the appropriate fee to the Lottery Security Division. See Section 67-7712(1), Idaho Code. These non-refundable fees are based on flat initial fee for applicants without a license and a fee based on annual gross revenues from bingo sessions or raffle events for applicants with a license as follows:-~~

\$100 fee - initial application
\$100 fee - up to \$25,000 annual gross revenues
\$200 fee - up to \$75,000 annual gross revenues
\$300 fee - over \$75,000 annual gross revenues

~~(3-25-22)~~

502. INFORMATION TO BE PROVIDED ~~IN~~ WITH APPLICATION.

01. Background Check of Applicants. ~~The application for an initial license and for a renewal license to operate a bingo game or to conduct a raffle will be reviewed and relevant background investigations will be conducted on all persons listed on the application as officers, directors or members of the charitable or nonprofit organization. The signature from the organization's representative on the application gives the Lottery authority to conduct the required investigations. The persons listed on the application must be officers or directors of the organization applying for a license and the application must be signed by an officer of the organization. (3-25-22)~~

02. Proper Identification. ~~The application must list the name, address, date of birth, driver's license number and social security or tax identification number of the applicant, if applicable. If the applicant is a corporation, association or similar legal entity, the application must also list the full name, current home address and phone number, date of birth, social security number, driver's license number and state of issuance, of each listed officer and director in order to conduct background investigations. See Section 67-7711(2)(a) and (b), Idaho Code. (3-25-22)~~

03. Charitable Organizations. ~~The application of a charitable organization must include a copy of the application for recognition of exemptions and a determination letter from the Internal Revenue Service that indicates that the organization is a charitable organization and that states the section of the tax code under which the exemption is granted, except that if the organization is a state or local branch, lodge, post of chapter or a national organization, a copy of the determination letter of the national organization will satisfy this requirement. See Section 67-7711(2)(e)(i), Idaho Code. The applicant must also provide verifiable documentation to prove charitable function, purpose and activities. Acceptable documentation includes, but is not limited to, meeting minutes, donation documentation, and membership list. (3-25-22)()~~

04. Incorporated Nonprofit Organizations. ~~The application of an incorporated nonprofit organization must include a copy of the certificate of existence issued by the secretary of state pursuant to Title 30, Chapter 3, Idaho Code, establishing the organization's good corporate standing in the state. See Section 67-~~

~~7711(2)(c)(ii), Idaho Code.~~ The applicant must also provide verifiable documentation to prove charitable function, purpose and activities. Acceptable documentation includes, but is not limited to, meeting minutes, donation documentation, and membership list. (3-25-22)()

~~05. Locations.~~ The application must list the location or locations at which the applicant will conduct bingo games or bingo sessions or drawings for raffles. See Section 67-7711(2)(d), Idaho Code. (3-25-22)

~~06. Raffle Drawings.~~ Raffle drawings must be held in Idaho and conducted within the license year for licensed organizations or within twelve (12) months from the date the first ticket was sold for unlicensed organizations. (3-25-22)

~~07. License Year and Fiscal Year.~~ An organization may apply for a license to coincide with the organization's fiscal year. See Section 67-7711(5), Idaho Code. (3-25-22)

~~08. Failure to Provide Information.~~ Failure to provide all information required for an application may result in a delay in considering an application or denial or dismissal of an application for a bingo/raffle license. See Section 67-7711(1), Idaho Code. (3-25-22)

5031. MULTIPLE CHAPTERS LICENSED TOGETHER.

Different chapters of an organization may apply for and share one (1) raffle license so long as the information required in ~~Subsections 502.01 through 502.06 of~~ 500.01 through 500.06 these rules is provided to the Lottery before the issuance of the license. ~~See Section 67-7711(4), Idaho Code.~~ When two (2) or more chapters share a license, in aggregate they are subject to the limitations of a single organization with a license; multiple chapters sharing a license are not entitled to multiples of the event or prize limits for a license. (3-25-22)()

5042. COMPENSATION OF CERTAIN PERSONS AND CONTRACTS WITH CERTAIN PERSONS PROHIBITED.

Persons listed on the application as officers or directors and their relatives and members of their household are prohibited from being compensated for their participation in the organizations bingo operation. No organization shall contract with any person not employed by, or a volunteer for, the organization for the purpose of conducting a bingo game or raffle on the organizations behalf. ~~See Section 67-7711(3), Idaho Code.~~ (3-25-22)()

5053. ACTION ON LICENSES.

~~01. Applications For Licenses.~~ ~~An application for a license will be approved, denied or dismissed in writing within fifteen (15) days of receipt of the written application and all other required documentation, except as provided in Section 67-7712(2)(j), Idaho Code, when a criminal prosecution of an applicant is pending or an appeal from a criminal prosecution of an applicant is pending.~~ The application will be denied if the applicant does not meet the requirements of statute and of these rules. If an application is not received thirty (30) days in advance of a proposed event, it is possible that a license may not be granted before the event, and the event will not be allowed to proceed without a license. ~~See Section 67-7711(1), Idaho Code.~~ (3-25-22)()

~~02. Issuance of Licenses.~~ A license will be issued when an application for a license is approved. A license expires one (1) year after its issuance. ~~See Section 67-7711(1), Idaho Code.~~ (3-25-22)()

~~03. Notice of Intended Actions.~~ If the Lottery intends to deny an application for a license or the renewal of a license or intends to revoke, cancel, rescind or suspend a license, it will provide fifteen (15) days' written notice to the applicant or to the licensee of the general basis for its intended action. If the applicant or licensee does not agree to the Lottery's intended action, the applicant or licensee must in writing request a hearing within the fifteen (15) day notice period. If a timely written request for a hearing is made, the hearing will be conducted in the same manner as a contested case hearing under Title 67, Chapter 52, Idaho Code. If a timely written request for a hearing is not made, the intended action is final and not subject to appeal. ~~See Section 67-7712(3), Idaho Code.~~ (3-25-22)

5064. SUSPENSION OR REVOCATION OF LICENSE -- CIVIL AND CRIMINAL PENALTIES.

Violation of the bingo and raffle statutes or of these bingo/raffle rules or of any conditions of a license may be grounds for administrative, civil or criminal actions, including, but not limited to, placement on probationary status,

suspension of operations, license revocation, penalties, or fines. ~~See Section 67-7707, Idaho Code. See also Sections 500 through 504 of these rules.~~ (3-25-22)()

5075. EXEMPTION FROM LICENSING AND LICENSING FEES.

Section 67-7713, Idaho Code, exempts charitable and non-profit organizations operating certain low-stakes bingo or raffle games from licensing. (3-25-22)

01. Low-Stakes Bingo. A charitable or nonprofit organization conducting a bingo game does not need to obtain a license if its gross annual bingo sales (gross revenues from bingo operations) are less than ten thousand dollars (\$10,000). (3-25-22)

02. Low-Stakes Raffle. A charitable or nonprofit organization does not need to obtain a license to conduct a raffle if the maximum aggregate value of merchandise awarded as prizes for the raffle does not exceed five thousand dollars (\$5,000). (3-25-22)

03. Exemption From Licensing Not Exemption From Rules. Organizations exempt from licensing under this rule must still comply with applicable requirements of statute and bingo/raffle rules. This information is available by contacting the Lottery. (3-25-22)

5086. RULES AND FORMS.

The Lottery will provide forms and reports necessary in regulating the charitable or nonprofit bingo and raffle events. The Commission is authorized to promulgate rules consistent with and in compliance with Title 67, Chapter 52, Idaho Code. (3-25-22)

5097. -- 599. (RESERVED)

SUB AREA: VENDORS ~~AND VENDORS' LICENSES AND FEES~~ APPROVED GAMING DEVICES

~~600. VENDOR'S LICENSE REQUIRED.~~

~~All businesses or persons who manufacture, sell, distribute, furnish, or supply to any person or organization any gaming devices, equipment, or materials in this state shall first obtain a vendor's license from the Lottery. See Section 67-7715, Idaho Code. Vendors must file an application and submit all required forms for background investigations.~~ (3-25-22)

~~601. LICENSE FEES.~~

~~Each initial application for a vendor's license must be accompanied by a five hundred dollar (\$500) non-refundable annual license fee that is due upon submission of the application. An application form approved by the Lottery, completed with all required information, must be submitted with the appropriate fee to the Director of Lottery Security, or his designee. See Section 67-7715(3)(5), Idaho Code.~~ (3-25-22)

~~602. INFORMATION TO BE PROVIDED IN APPLICATION.~~

~~**01. Identification of Applicants.** The application for initial license and for renewal of a license must list:~~ (3-25-22)

~~**a.** The name, address, date of birth, driver's license number and social security number of the applicant, and if the applicant is a corporation, proprietorship, association, partnership or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the corporation and their spouses, as well as the name and address of the directors and their spouses, or other persons similarly situated and the financial information required to complete the application form. See Section 67-7715(3)(a), Idaho Code.~~ (3-25-22)

~~**b.** The locations from which or persons with which the applicant will provide any gaming devices, equipment or material in this state or for use in this state. See Section 67-7715(3)(b), Idaho Code.~~ (3-25-22)

~~**02. Incomplete Applications.** Financial reports submitted with the license application will be reviewed as part of the background investigation. All requested data must be included on the application to avoid any~~

~~delay. The application may be dismissed if it is incomplete.~~ (3-25-22)

6030. APPROVAL, DENIAL OR DISMISSAL OF APPLICATION FOR ISSUANCE OF LICENSE.

The Lottery will approve, deny or dismiss an application for a vendor's license, within fifteen (15) days. At the applicant's request the Lottery may defer decision for a longer time. The application will be approved, denied or dismissed in writing. The Lottery will issue vendor licenses to successful applicants. ~~See Section 67-7715, Idaho Code.~~ (3-25-22)()

01. Incomplete Applications. Financial reports submitted with the license application will be reviewed as part of the background investigation. All requested data shall be included on the application to avoid any delay. The application may be dismissed if it is incomplete. ()

6041. SUSPENSION OR REVOCATION OF LICENSE.

Any licensed vendor in violation of statute or of these rules or of any conditions of its license may face suspension or revocation of its vendor's license. (3-25-22)

6052. -- 609. (RESERVED)

610. GAMING DEVICES, EQUIPMENT OR MATERIALS.

Gaming devices, equipment, and materials include but are not limited to: (3-25-22)

01. Number Selectors and Related Equipment. Number selection machines, manual mixing drums, or computerized random selectors, site systems, host systems or other electronic bingo machines used to select numbers for bingo or raffles are gaming devices, equipment or materials. (3-25-22)

02. Bingo Cards. Numbered paper bingo cards and hard bingo cards as described in Paragraphs Subsections 310.03.a. and ~~301.19~~ 300.14 of these rules, including Bonanza cards, "U-Pick-Ems," and electronic bingo cards, are gaming devices, equipment or materials. (3-25-22)()

03. Miscellaneous. Daubers, raffle tickets, record keeping materials, electronic bingo devices and other items used in the operation of bingo or raffles are gaming devices, equipment or materials. (3-25-22)

611. PAPER BINGO CARD MANUFACTURERS STANDARDS.

Card manufacturers must follow these standards for paper cards: (3-25-22)

01. Quality of Paper. The paper must be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading or bleeding through a packet and obscuring other numbers or cards. (3-25-22)

02. Random Assignment of Numbers. Numbers printed on the card must be randomly assigned. (3-25-22)

03. Serial Numbers. Each set of cards must be comprised of cards bearing the same serial number. No serial number may be duplicated by a manufacturer in a given calendar year. (3-25-22)

04. Packet Assembly. Cards assembled in books or packets must be glued, not stapled. (3-25-22)

05. Labeling. A label must be placed on the exterior of each carton of bingo paper listing the type of product, number of packets or loose sheets, serial numbers, per (series) numbers, number of cases, cut of paper, and color of paper. (3-25-22)

06. Packing Slips. A packing slip inside each case must list the same information as listed on the label. (3-25-22)

07. Invoice. All orders must be accompanied by an invoice which lists the type of product, number of packets or loose sheets, serial numbers of all packets or loose sheets, per (series) numbers, number of cases, cut of paper, color of paper and pricing by item. The invoice must also include the supplier (vendor) name, and the name

and address of the organization purchasing the paper. (3-25-22)

612. NUMBER SELECTORS.

All number selectors for bingo operations must be approved by the Commission ~~after review and advice by the Bingo Raffle Advisory Board~~. Electronic random selectors must interact with players. ~~Auto daubing systems for paper bingo cards are prohibited.~~ (3-25-22)()

~~613. DISTRIBUTION AND USE OF ELECTRONIC BINGO MACHINES.~~

~~**01. Approved Sources.** A licensed distributor of electronic bingo machines must purchase, rent, lease or otherwise provide electronic bingo machines only from a licensed manufacturer and purchase, lease, rent, or otherwise provide only electronic bingo machines that have been approved by the Commission. See Section 67-7718(1), Idaho Code. (3-25-22)~~

~~**02. Approved Users.** A licensed distributor of electronic bingo machines is permitted to sell, rent, lease or otherwise provide electronic bingo machines only to licensed bingo operators. See Section 67-7718(2), Idaho Code. (3-25-22)~~

~~**03. Initial Use.** The licensed distributor of electronic bingo machines must notify the Commission in writing of the sale, rental, lease, provision or installation of any electronic bingo machines before a licensed bingo operator's first use of the machines as follows: (3-25-22)~~

~~**a.** The complete name and address of the licensed bingo operator and their license number. (3-25-22)~~

~~**b.** The type of equipment and the serial numbers of equipment that was sold, rented, leased, provided or installed. (3-25-22)~~

~~**c.** The expected date upon which the licensed bingo operator will begin to use the equipment. (3-25-22)~~

~~**d.** A copy of any and all agreements or contracts between the licensed distributor and the licensed bingo operator regarding use of the equipment. (3-25-22)~~

~~**04. Installation, Maintenance, Service and Repair.** The licensed distributor must be the initial contact for installation, service, maintenance or repair of electronic bingo machines and for ordering electronic bingo cards. The distributor may enlist the manufacturer's assistance for installation, service, maintenance or repair of electronic bingo machines. With the Commission's approval, a licensed manufacturer may authorize or subcontract with others for service, repair or maintenance of electronic bingo machines, but the licensed manufacturer retains ultimate responsibility and liability for service, maintenance and repair. See Section 67-7718(4), Idaho Code. (3-25-22)~~

~~**05. Invoices and Payments.** The licensed distributor of electronic bingo machines must be the person who invoices for and collects payments for a licensed bingo operator's use of electronic bingo machines. The manufacturer may generate the invoice. All payments must be to the distributor and not the manufacturer. The invoice must contain the licensed distributor's name, complete address and license number of the licensed bingo operator. See Section 67-7718(5), Idaho Code. (3-25-22)~~

~~**06. Transportation Of Electronic Bingo Devices.** A licensed distributor may transport electronic bingo devices from one (1) location to another for use by one (1) or more licensed bingo operator after the distributor has notified the Commission in writing of its schedule for rotating the electronic bingo devices from one (1) location to another. The notification must list the locations at which the devices will be used and name the licensed bingo operators that will be using the devices at each location. See Section 67-7718(6), Idaho Code. (3-25-22)~~

~~**07. Site Systems and Transportation of Site Systems.** Each licensed bingo operator that uses a site system must have its own site system. A licensed bingo operator that uses a site system cannot transport its site system from one (1) location to another or allow another bingo operator to use its site system without prior written approval from the Commission. See Section 67-7718(6), Idaho Code. (3-25-22)~~

~~6143.~~ ~~---~~ ~~699.~~ (RESERVED)

~~SUB AREA: SUSPENSION, REVOCATION, OR DENIAL OF A LICENSE~~

~~700. SUSPENSION, REVOCATION OR DENIAL OF LICENSE.~~

~~Any licensee or applicant for a license found by a court of competent jurisdiction or by the Lottery pursuant to the procedures of Section 67-7712, Idaho Code, to be in violation of any statutes or rules governing operating, supplying of equipment for, participating in, or establishing of gaming in the state of Idaho may be subject to suspension, revocation or denial of its license. See Sections 67-7712 and 67-7715, Idaho Code. (3-25-22)~~

~~701. GROUNDS FOR SUSPENSION, REVOCATION OR DENIAL OF LICENSE.~~

~~The Lottery may suspend, revoke or deny a license if it finds that the licensee or applicant for a license has violated any provision of Title 67, Chapter 77, Idaho Code, any of these rules, or any county ordinance adopted pursuant to Title 67, Chapter 77, Idaho Code, (See Section 67-7712(2), Idaho Code). (3-25-22)~~

~~702. COMPLAINT AGAINST AND INVESTIGATION OF LICENSEES.~~

~~The Lottery may, upon its own motion, or upon a written verified complaint of any other person, investigate the operation of any gaming purportedly authorized by Title 67, Chapter 77, Idaho Code, or by these rules, whether the gaming is conducted by a licensed or an exempt operation, and whether gaming equipment or supplies comply with the requirements of Title 67, Chapter 77, Idaho Code. If the Lottery has reasonable cause to believe that any gaming described in Title 67, Chapter 77, Idaho Code, or in these rules, violates the provisions of the Idaho Code or of these rules, in its discretion it may under the procedures set forth in Section 67-7712(3), Idaho Code, and as provided by these rules propose to revoke, cancel, rescind or suspend any license for a period not to exceed one (1) year, or refuse to grant a renewal of the license, or take other action as may be appropriate under Idaho Code or these rules. See Section 67-7712(3), Idaho Code. (3-25-22)~~

~~703. PROCEDURE UPON FINDING OF REASONABLE CAUSE.~~

~~If the Lottery refuses to grant a license or refuse to grant a renewal of a license or revoke, cancel, rescind or suspend a license, it shall give the applicant or licensee fifteen (15) calendar days' written notice of its intended action stating generally the basis for its action. Within the fifteen (15) calendar days' notice period, the applicant or licensee shall indicate its acceptance of the decision of the Lottery or request a hearing to be held in the same manner as hearings in contested cases pursuant to Title 67, Chapter 52, Idaho Code. See Section 67-7712(3), Idaho Code. (3-25-22)~~

~~704.~~ ~~---~~ ~~999.~~ (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.05 – RULES AND STANDARDS FOR HAZARDOUS WASTE

DOCKET NO. 58-0105-2501

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Chapters 1, 44, and 58, Title 39, Idaho Code. In addition, 40 CFR 271.21(e)(1) and Section 39-4404, Idaho Code, require DEQ to adopt amendments to federal law as proposed under this docket.

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 a hearing must be received by the undersigned on or before August 20, 2025. 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 purpose of this rulemaking is to ensure that the state rules remain consistent with federal regulations. Idaho's Rules and Standards for Hazardous Waste, IDAPA 58.01.05, are updated annually to maintain consistency with the federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). This proposed rule updates federal regulations incorporated by reference with the July 1, 2025 Code of Federal Regulations (CFR) effective date. The July 1, 2025 CFR is a codification of federal regulations published in the Federal Register as of July 1, 2025.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2026 Idaho Legislature, the rule will become effective on July 1, 2026, unless otherwise specified in the concurrent resolution.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

Not applicable.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

Adoption of federal regulations is necessary to maintain program primacy, allows DEQ to keep its rules up to date with federal regulation changes and simplifies compliance for the regulated community. Information for obtaining a copy of the federal regulations is included in the rule.

In compliance with Idaho Code 67-5223(4), DEQ prepared a brief synopsis detailing the substantive differences between the previously incorporated material and the latest revised edition or version of the incorporated material being proposed for incorporation by reference. The Overview of Incorporations by Reference is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/hazardous-waste-docket-no-58-0105-2501/>.

NEGOTIATED RULEMAKING: Negotiated rulemaking was not conducted. DEQ determined that negotiated rulemaking is not feasible due to the simple nature of this rulemaking and because DEQ has no discretion with respect to adopting EPA's federal regulations implementing the Resource Conservation and Recovery Act (RCRA) as directed by the Idaho Hazardous Waste Management Act (HWMA). Whenever possible, DEQ incorporates federal regulations by reference to ensure that the state rules are consistent with federal regulations.

IDAHO CODE SECTION 39-107D STATEMENT: This proposed rule does not regulate an activity not regulated by the federal government, nor is it broader in scope or more stringent than federal regulations.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this proposed rulemaking, contact Albert Crawshaw at albert.crawshaw@deq.idaho.gov or (208) 373-0554.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before September 3, 2025. Submit written comments to:

Albert Crawshaw
Department of Environmental Quality
1410 N. Hilton, Boise, ID 83706
albert.crawshaw@deq.idaho.gov

Dated this 6th day of August, 2025.

Diane Cutler
Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
208-373-0151
diane.cutler@deq.idaho.state

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0105-2501
(Only Those Sections With Amendments Are Shown.)

002. INCORPORATION BY REFERENCE.

01. Federal Regulations Incorporated by Reference. 40 CFR Parts 124, 260 - 268, 270, ~~271~~, 273, 278, and 279 revised as of July 1, ~~2024~~, 2025, are incorporated by reference into these rules. ~~(7-1-25)~~()

02. Exceptions. Nothing in 40 CFR Parts 260 - 268, 270, 273, 278, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (3-24-22)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.06 – SOLID WASTE MANAGEMENT RULES

DOCKET NO. 58-0106-2501 (ZBR CHAPTER REWRITE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking. This action is authorized by Sections 39-105, 39-107 and 39-7408C, Idaho Code.

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 a hearing must be received by the undersigned on or before August 20, 2025. If no such written request is received, a public hearing will not be held. One public scoping meeting was held before initiation of negotiated rulemaking, and two public meetings were held during the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking in compliance with [Executive Order No. 2020-01, Zero-Based Regulation](#) (EO 2020-01), issued by Governor Little on January 16, 2020. Pursuant to EO 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at https://adminrules.idaho.gov/forms_menu.html. This is one of the DEQ rule chapters up for review in 2025. The goal of the rulemaking is to perform a critical and comprehensive review of the entire chapter in an attempt to reduce overall regulatory burden, streamline various provisions, and increase clarity and ease of use.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which public comment should be addressed. If adopted by the Idaho Board of Environmental Quality and approved by concurrent resolution of the 2026 Idaho State Legislature, the rule will become effective on July 1, 2026, unless otherwise specified in the concurrent resolution.

FEE SUMMARY: This rulemaking does not impose or increase a fee beyond what was previously submitted to and reviewed by the Idaho Legislature in prior rules. Fees included in this rule chapter are authorized by Idaho Code §39-7408(C).

FISCAL IMPACT STATEMENT: The following is a specific description, if applicable, of any negative fiscal impact on the state General Fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: Not applicable.

NEGOTIATED RULEMAKING: Negotiated rulemaking was conducted pursuant to Section 67-5220, Idaho Code. On March 5, 2025, the Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking was published in the Idaho Administrative Bulletin. At the conclusion of the negotiated rulemaking process, DEQ submitted the draft rule to the Division of Financial Management for review. DEQ formatted the draft for publication as a proposed rule and is now seeking public comment. The negotiated rulemaking record, which includes the negotiated rule drafts, documents distributed during the negotiated rulemaking process, and the negotiated rulemaking summary, is available at <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/solid-waste-management-docket-no-58-0106-2501/>.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule.

Incorporation by reference allows DEQ to keep its rules up to date with federal regulations and simplifies compliance for the regulated community. An electronic link to the incorporated material is available in the rule. This rulemaking does not propose to adopt amendments to materials previously incorporated by reference. There are no substantive differences between previously incorporated material and the latest version being proposed for incorporation by reference.

For 40 CFR 257.24(a), Detection Monitoring Program, and 40 CFR 257.9, Wetlands, the “revised as of dates” have been updated to July 1, 2025, even though these sections have not been substantially revised since incorporation

by reference in 2001. The purpose of this update is to simplify compliance by making the incorporated CFR more accessible to the public.

40 CFR 260.10, Definitions, and 40 CFR 257.2, Definitions, are proposed for incorporation by reference into IDAPA 58.01.06 for the first time.

IDAHO CODE SECTION 39-107D STATEMENT: IDAPA 58.01.06, Solid Waste Management Rules, are part of the requirements for Idaho’s EPA approved Solid Waste Program. These rules regulate activities that are not specifically regulated by the federal government and are broader in scope than federal regulations. The federal government does provide specific criteria for municipal solid waste landfills; however, the federal regulations do not regulate certain non-municipal solid waste landfills in Idaho. These rules address non-municipal solid waste facilities. The revisions in this proposed rule are administrative in nature and do not set a standard based on science.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Amanda Henderson at amanda.henderson@deq.idaho.gov or (208) 236-6160.

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this proposed rule. The Department will consider all written comments received on or before September 3, 2025. Submit written comments to:

Amanda Henderson
Department of Environmental Quality
444 Hospital Way, Suite 300, Pocatello, ID 83201
amanda.henderson@deq.idaho.gov

Dated this 6th day of August, 2025

Diane Cutler
Rules and Planning Coordinator
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
208-373-0151
diane.cutler@deq.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 58-0106-2501
(ZBR Chapter Rewrite.)

58.01.06 – SOLID WASTE MANAGEMENT RULES

000. LEGAL AUTHORITY.

~~Sections 39-105 and 39-107, and 39-7408C Idaho Code, authorize the Board of Environmental Quality to adopt rules and administer programs to protect surface water quality, ground water quality and air quality, and to regulate solid waste treatment or disposal and the licensure and certification requirements pertinent thereto. Section 39-7408C, Idaho Code, authorizes the Board of Environmental Quality to establish by rule municipal solid waste commercial siting license fees.~~ (3-24-22)()

001. TITLE AND SCOPE.

- ~~01.~~ ~~Title.~~ These rules are titled IDAPA 58.01.06, “Solid Waste Management Rules.” (3-24-22)
- ~~02.~~ ~~Scope.~~ These rules establish requirements applicable to all solid waste and solid waste management facilities in Idaho, except as specifically provided in Subsections 001.03~~1~~ and 001.04~~2~~. (3-24-22)()
- ~~03~~**1.** **Wastes Not Regulated Under These Rules.** (3-24-22)
- a. These rules do not apply to the following solid wastes: (3-24-22)
- i. Liquid wastes when the discharge or potential discharge of the liquid waste is regulated under a federal, state or local water pollution discharge or wastewater land application permit, including management of any solids if management of the solids are addressed in a permit term or condition; (3-24-22)
- ii. Hazardous wastes regulated by the Hazardous Waste Management Act of 1983, Chapter 44, Title 39, Idaho Code, (HWMA) and the rules adopted thereunder; (3-24-22)()
- iii. Polychlorinated biphenyl (PCB) waste regulated under the Toxic Substances Control Act, as amended, 15 U.S.C. 2601, et seq., and these rules apply to PCB waste authorized by federal law to be disposed of at a nonhazardous waste landfill that is permitted, licensed, or registered under Idaho Law is regulated under these rules; (3-24-22)()
- iv. Slash or slashing areas resulting from the harvesting of timber and the disposal of which is managed pursuant to the Idaho Forestry Act, Chapter 1, Title 38, Idaho Code or log landings or sorting sites; (3-24-22)()
- v. Wastes used, managed, stored and disposed of in accordance with The Wood and Mill Yard Debris Technical Guidance Manual, as amended, published by the Department and developed pursuant to Sections 39-171 through 39-174, Idaho Code; (3-24-22)()
- vi. Clean soils and clean dredge spoils as regulated under Section 404 of the federal Clean Water Act provided that they are not hazardous wastes regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code (HWMA) and the rules adopted thereunder; (3-24-22)()
- vii. Septage taken to a sewage treatment plant permitted by either the U.S. Environmental Protection Agency or the Department pursuant to IDAPA 58.01.~~45~~**03**, “Individual/Subsurface Sewage Disposal Rules and Rules Governing the for Cleaning of Septic Tanks”; (3-24-22)()
- viii. All radioactive waste and radioactive materials regulated pursuant to Section 39-4405(9), Idaho Code and rules adopted thereunder, and radioactive waste and materials regulated under the authority of the Atomic Energy Act of 1954, as amended; (3-24-22)()
- ix. Petroleum Contaminated Soils (PCS) from a leaking petroleum storage tank system managed as a one (1) time remediation pursuant to ~~IDAPA 58.01.02, “Water Quality Standards”~~ IDAPA 58.01.24, “Rules for Petroleum Release Corrective Action”; (3-24-22)()
- x. Asbestos as regulated by the Toxic Substances Control Act, as amended, 15 U.S.C. ~~Sections~~ 2601, et seq., or asbestos as regulated by the Clean Air Act, as amended, 42 U.S.C. ~~Section~~ 7412; (3-24-22)()
- xi. Nonhazardous wastes disposed of in a permitted hazardous waste treatment, storage and disposal unit regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code, HWMA and rules adopted thereunder; or (3-24-22)()
- xii. Waste otherwise regulated under Department authorities. (3-24-22)
- b. These rules do not apply to the following solid waste unless these wastes are mixed with more than incidental quantities of regulated waste; (3-24-22)()

- i. Inert wastes; (3-24-22)
- ii. Manures and crop (plant) residues ultimately returned to the soils at agronomic rates; (3-24-22)
- iii. Any agricultural solid waste which is managed and regulated pursuant to rules adopted by the Idaho Department of Agriculture. The Department reserves the right to use existing authorities to regulate agricultural waste that impacts human health or the environment; (3-24-22)
- iv. Overburden, waste dumps, low-grade stockpiles, tailings and other materials uniquely associated with mineral extraction, beneficiation or processing operations; (3-24-22)
- v. Slag from the production of elemental phosphorus; (3-24-22)
- vi. Phospho-gypsum from the production of phosphate fertilizers, which includes the production of phosphoric acid; and (3-24-22)
- vii. Wood waste used for ornamental, animal bedding, mulch and plant bedding, or road building purposes. (3-24-22)

042. Solid Waste Management Facilities Not Regulated Under These Rules. These ~~R~~rules do not apply to the following solid waste management facilities: (~~3-24-22~~)()

- a. Solid waste management facilities accepting only solid waste excluded by Subsection 001.03~~1~~; (~~3-24-22~~)()
- b. Recycling centers; or (3-24-22)
- c. Backyard composting sites. (3-24-22)

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, “Contested Case Rules and Rules for Protection and Disclosure of Records.” (3-24-22)

004. APPLICABILITY.

These rules apply to all solid waste unless excluded by Subsection 001.03 and to all solid waste management sites in Idaho unless excluded by Subsection 001.04~~2~~. Compliance with these rules does not relieve owners and operators from the obligation to comply with other applicable state or federal laws, including but not limited to the IDAPA 58.01.02, “Water Quality Standards,” IDAPA 58.01.11, “~~Ground Water~~Groundwater Quality Rule,” and IDAPA 58.01.01, “Rules for the Control of Air Pollution in Idaho.” (~~3-24-22~~)()

01. Solid Waste Facility Other Than Municipal Solid Waste Landfills (MSWLF) Applicability. Sections 000 through ~~060 and Section 999~~ 032 apply to all solid waste facilities other than MSWLF, as specified therein. (~~3-24-22~~)()

02. Municipal Solid Waste Landfill Applicability. Sections 000 through ~~007~~ 005, and Sections 994 through ~~999~~ 995 apply to all MSWLFs, as specified therein. (~~3-24-22~~)()

005. DEFINITIONS.

The terms “Department,” “Director,” “Person,” and “Solid Waste” are defined in Section 39-103, Idaho Code. The term “Ground water” (Groundwater) is defined in Section 39-121, Idaho Code. The terms “Land Application Unit,” “Leachate,” “Surface Impoundment or Impoundment,” and “Waste Pile or Pile” are defined in 40 CFR 257.2. The term “Very Small Quantity Generator” (VSQG) is defined in 40 CFR 260.10. ()

01. Active Portion. That part of a unit where waste had been, or may be, disposed of, treated, or otherwise managed, and that has not been closed in accordance with applicable rules. (3-24-22)

02. **Backyard Composting.** Composting operations used only by the owner or person in control of a residential dwelling unit to process garbage and yard waste generated at that dwelling unit. (3-24-22)

03. **Beneficial Use.** Various uses of ground water in Idaho including, but not limited to, domestic water supplies, industrial water supplies and agricultural water supplies. A beneficial use is defined as actual current and projected future uses of ground water. (3-24-22)

04. **Commercial Solid Waste Facility.** A MSWLF owned and operated as an enterprise conducted with the intent of making a profit by any individual, association, firm, or partnership for the disposal of solid waste, but excluding a MSWLF owned or operated by a political subdivision, state or federal agency or, municipality or a MSWLF owned or operated by any individual, association, firm, or partnership exclusively for the disposal of solid waste generated by such individual, association, firm, or partnership. (3-24-22)

05. **Composting Facility.** See definition of Processing Facility. (3-24-22)

06. ~~Very Small Quantity Generator (VSQG) Hazardous Waste.~~ As defined in 40 CFR Part 260.10. (3-24-22)

07. ~~Very Small Quantity Generator (VSQG) Management Facility.~~ A facility or portion thereof where household hazardous waste or VSQG wastes are transferred from a vehicle or container and subsequently transported to another facility. A VSQG management facility does not include temporary drop off locations or other facilities where individuals or businesses are authorized to store waste for ultimate collection and disposal. (3-24-22)

08. **Contamination.** The introduction of a substance into the surface or ~~ground water~~ groundwater causing: (3-24-22)()

a. At or beyond the point of compliance, the concentration of that substance in ~~ground water to result groundwater resulting~~ in significant degradation, as determined ~~pursuant to Subsection 400.02.b of IDAPA 58.01.11,~~ “Ground Water by “Groundwater Quality Rule,” or in an exceedance of the maximum contamination level (MCL) specified in the ~~Ground Water Groundwater~~ Groundwater Quality Rule; (3-24-22)()

b. The concentration of that substance in surface water exceeds a numerical criteria or fails to protect designated beneficial uses specified in ~~the “Water Quality Standards,” IDAPA 58.01.02,~~ “Water Quality Standards”; (3-24-22)()

c. A statistically significant increase in the concentration of that substance in the ~~ground water groundwater~~ at or beyond the point of compliance, or in surface water, where the existing concentration of that substance exceeds the contamination level specified in Subsections 005.08.a. or 005.08.b. of this rule; or (3-24-22)()

d. A statistically significant increase in the concentration of that substance in ~~ground water groundwater~~ at the point of compliance, or in surface water, above background of a substance which; (3-24-22)()

i. Is not specified in Subsections 005.08.a. or 005.08.b. ~~of this rule; and~~ (3-24-22)()

ii. Is a result of the disposal of solid waste; and (3-24-22)

iii. Has been determined by the department to present a substantial risk to human health or the environment in the concentrations found in the ~~ground water groundwater~~ at the point of compliance, or in surface water. (3-24-22)()

07. **Decontamination.** As used in Subsections 010.01, 011.01, 012.03, and 013.03, “decontamination” is the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal. ()

~~098.~~ **Degradation.** The lowering of ~~ground-water~~ groundwater quality as measured in a statistically significant and reproducible manner. (3-24-22)()

~~10.~~ **Department.** The Idaho Department of Environmental Quality. (3-24-22)

~~11.~~ **Director.** The Director of the Idaho Department of Environmental Quality. (3-24-22)

~~1209.~~ **Disposal.** Discharge, deposit, injection, dumping, spilling, leaking, leaching, migration or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ~~ground-water~~ groundwater. (3-24-22)()

~~130.~~ **Facility.** Any area used for any solid waste management activity, including, but not limited to, storage, transfer, processing, separation, incineration, treatment, salvaging, or disposal of solid waste. (3-24-22)

~~141.~~ **Garbage.** Any waste consisting of putrescible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food, including waste materials from households, markets, storage facilities, handling and sale of produce and other food products. (3-24-22)()

~~15.~~ **Ground Water.** Any water of the state that occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-24-22)

~~162.~~ **Household Waste.** Any solid waste, including kitchen wastes, trash and sanitary waste in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas. (3-24-22)

~~173.~~ **Incinerator.** Any source consisting of a furnace and all appurtenances thereto designed for the destruction of solid waste by burning. "Open Burning" is not considered incineration. (3-24-22)

~~184.~~ **Inert Waste.** Noncombustible, nonhazardous, and non-putrescible solid wastes that are likely to retain their physical and chemical structure and have a de minimis potential to generate leachate under expected conditions of disposal, which includes resistance to biological attack. "Inert waste" includes, but is not limited to, rock, concrete, cured asphaltic concrete, masonry block, brick, gravel, dirt, inert coal combustion by-products, inert precipitated calcium carbonate and inert component mixture of wood or mill yard debris. (3-24-22)

~~19.~~ **Landfill.** An area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well or waste pile, as those terms are defined under 40 CFR 257.2. (3-24-22)

~~20.~~ **Leachate.** A liquid that has passed through or emerged from waste and contains soluble, suspended, or miscible materials removed from such waste. (3-24-22)

~~215.~~ **Lift.** A vertical rise of compacted solid waste that is complete when it is no longer practical to add additional height without the addition of a cover layer to provide structural stability. (3-24-22)

~~2216.~~ **Modification.** Any change in the physical characteristics, waste types managed, method of operation, or lateral expansion beyond the boundaries of a site. The following is not considered a modification: (3-24-22)

a. Repair and replacement of existing equipment; (3-24-22)

b. Increase in production rate that does not exceed the Tier level criteria or approved facility capacity; (3-24-22)

c. An increase in hours of operation if more restrictive hours of operation are not specified in an approved operating plan; ~~and~~ or (3-24-22)()

- d. Acquisition of property that is not to be used for the processing or disposal of solid waste. (3-24-22)
- ~~23~~**17.** **Municipal Solid Waste Landfill Unit (MSWLF).** As regulated under Chapter 74, Title 39, Idaho Code, a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, ~~injection well~~, or waste pile, as those terms are defined ~~under in~~ 40 CFR 257.2. A MSWLF unit also may receive other types of Resource Conservation and Recovery Act (RCRA) subtitle D wastes, such as commercial solid waste, nonhazardous sludge, very small quantity generator (VSQG) waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. (~~3-24-22~~)()
- ~~24~~**18.** **Non-Municipal Solid Waste (NMSW).** A solid waste that is: (3-24-22)
- a. Not mixed with household waste; or (3-24-22)
- b. Not excluded from these rules by Subsection 001.031. (~~3-24-22~~)()
- ~~25~~**19.** **Non-Municipal Solid Waste Landfill (NMSWLF).** A landfill that accepts only non-municipal solid waste. (3-24-22)
- ~~26~~**0.** **Open Burning.** The combustion of solid waste without: (3-24-22)
- a. Control of combustion air to maintain adequate temperature for efficient combustion; (3-24-22)
- b. Containment of the combustion reaction in an enclosed device so as to provide sufficient residence time and mixing for complete combustion; and (3-24-22)
- c. Control of the emission of the combustion products. (3-24-22)
- ~~27~~**1.** **Operator.** The person(s) responsible for the overall operation of all or part of a site or facility. (3-24-22)
- ~~28~~**2.** **Owner.** The person(s) who owns land or a portion of the land on which a site or facility is located. (3-24-22)
- ~~29.~~ **Person.** ~~Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal government department, agency, or instrumentality, municipality, industry, or any other legal entity which is recognized by law as the subject of rights and duties.~~ (~~3-24-22~~)
- ~~30~~**23.** **Point of Compliance.** A vertical surface located no more than one hundred fifty (150) yards hydraulically down gradient from the active portion of a facility or site, located at the facility boundary down gradient of the land area, or located at the point of diversion of an identified beneficial use within the site, whichever is the smallest distance from the active portion. (3-24-22)
- ~~31~~**24.** **Processing Facility.** A facility that uses biological or chemical decomposition to prepare solid waste for reuse, including compost facilities excluding waste handling at transfer stations or recycling centers. (~~3-24-22~~)()
- ~~32~~**25.** **Projected Waste Volume.** The total actual or potential solid waste volume measured in tons per day, cubic yards per day, or an equivalent measurement, proposed to be received or processed at a solid waste facility. (3-24-22)
- ~~33~~**26.** **Pumpable Waste.** Wastes, including non-domestic septage, sludge, wastewater and non-municipal solid wastes, which are pumped from a holding area or container into a watertight tank truck or equivalent and transported for processing or disposal. (3-24-22)

3427. Qualified Professional. Qualified professional means a licensed professional geologist or licensed professional engineer, as appropriate, holding current professional registration in good standing and in compliance with applicable provisions of [Chapter 12, Title 54, Idaho Code](#). (3-24-22)

3528. Recyclables. Used, end, or waste products with useful properties that can be reused. (3-24-22)

3629. Recycling. The reclamation of solid waste and its subsequent introduction into an industrial process by which the materials are transformed into a new product in such a manner that the original identity as a product is lost. (3-24-22)

370. Recycling Center. A materials recovery facility that receives recyclables, then sorts, bales, loads, or physically alters the material and transports the commodities to markets. (3-24-22)

31. Regulated Waste. As used in Subsections 010.01, 011.01, 012.03, and 013.03, “regulated waste” is liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials. ()

382. Salvage. The reclamation of solid waste at a disposal site. (3-24-22)

393. Scavenge. The unauthorized removal of materials from a facility. (3-24-22)

4034. Septage. A semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system. (3-24-22)

4435. Site. Any contiguous geographic area with one (1) or more facilities owned or operated by the same person used for any solid waste management activity, including, but not limited to, storage, transfer, processing, separation, incineration, treatment, salvaging, or disposal of solid waste. (3-24-22)

4236. Site Size. The sum in acres of all proposed or existing facilities. (3-24-22)

~~**43. Solid Waste.** Any garbage or refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923).~~ (3-24-22)

4437. Speculative Accumulation. ~~Stock piles~~ Stockpiles of materials or recyclables to be processed for reuse or disposal when fifty percent (50%) of the material is not reused or disposed by the end of the following calendar year after the date of first receipt by the facility, and which may create a nuisance or public health impact. (3-24-22)()

4538. Storm Water. Accumulation of water from natural precipitation, including snow melt. (3-24-22)

4639. Surface Water. All surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state, unless such waters are an integral part of the facility’s operation for storm water control and or leachate management. (3-24-22)

470. Tipping Floor. An area at a transfer station, processing facility, VSQG management facility or incinerator that receives and contains all waste materials. (3-24-22)

481. Toxic Leachate or Gas. Concentrations of leachate or gas that will cause contamination, as defined

by these rules, or that will exceed standards in ~~the IDAPA 58.01.01~~, “Rules for the Control of Air Pollution in Idaho.” (3-24-22)()

492. Transfer Station. A facility or portion thereof where solid wastes are transferred from a vehicle or container and subsequently transported off-site to another facility. A transfer station does not include an authorized rural drop-box or other facilities where persons are authorized to store individual waste for ultimate collection and disposal, or any other facility that stores solid waste generated at the facility for collection and disposal off-site. (3-24-22)

5043. Wood or Mill Yard Debris Facility. A facility that manages exclusively, solid wood, bark, or wood fiber generated from the process of manufacturing wood products that may include ash from the burning of wood waste in amounts and in conformity with the ~~requirements provisions~~ of the Wood & Mill Yard Technical Guidance Manual, components of soil, rock, or moisture. (3-24-22)()

5144. Yard Waste. Weeds, straw, leaves, grass clippings, brush, wood, and other natural, organic, materials typically derived from general landscape maintenance activities. (3-24-22)

45. Very Small Quantity Generator (VSOG) Management Facility. A facility or portion thereof where household hazardous waste or VSOG wastes are transferred from a vehicle or container and subsequently transported to another facility. A VSOG management facility does not include temporary drop off locations or other facilities where individuals or businesses are authorized to store waste for ultimate collection and disposal. ()

006. ABBREVIATIONS(RESERVED).

- ~~01. BRC. Below Regulatory Concern. (3-24-22)~~
- ~~02. CFR. Code of Federal Regulations. (3-24-22)~~
- ~~03. EPA. Environmental Protection Agency. (3-24-22)~~
- ~~04. ISWFA. Idaho Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code. (3-24-22)~~
- ~~05. MSWLF. Municipal Solid Waste Land Fill. (3-24-22)~~
- ~~06. NMSW. Non Municipal Solid Waste. (3-24-22)~~
- ~~07. NMSWLF. Non-Municipal Solid Waste Land Fill. (3-24-22)~~
- ~~08. PCS. Petroleum Contaminated Soils. (3-24-22)~~
- ~~09. RCRA. Resource Conservation and Recovery Act. (3-24-22)~~
- ~~10. U.S.C. United States Code. (3-24-22)~~

007. INCORPORATION BY REFERENCE.

~~01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 007.02 shall constitute the full adoption by reference, including any notes and appendices therein. The term “documents” includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (3-24-22)~~

~~02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (3-24-22)~~

- ~~a01. Detection Monitoring Program. 40 CFR 257.24(a), revised as of July 1, 2001²⁵. (3-24-22)()~~
- ~~b02. Wetlands. 40 CFR 257.9, revised as of July 1, 2001²⁵. (3-24-22)()~~

~~03. Availability of Referenced Material.~~ Copies of the documents incorporated by reference into these rules are available at the following locations: (3-24-22)

- ~~a. Department of Environmental Quality, 1410 N. Hilton, Boise ID 83706 1255. (3-24-22)~~
- ~~b. Idaho State Law Library, 451 W. State Street, P.O. Box 83720, Boise ID 83720-0051. (3-24-22)~~
- ~~c. U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174, www.ecfr.gov. (3-24-22)~~

~~03. Definitions.~~ 40 CFR 260.10, revised as of July 1, 2025. All definitions included in 40 CFR 260.10 are excluded from incorporation except the definition of “Very Small Quantity Generator” is incorporated by reference in these rules. ()

~~04. Definitions.~~ 40 CFR 257.2, revised as of July 1, 2025. All definitions included in 40 CFR 257.2 are excluded from incorporation except the definitions of “Land Application Unit,” “Leachate,” “Surface Impoundment or Impoundment,” and “Waste Pile or Pile” are incorporated by reference into these rules. ()

008. (RESERVED)

009. SOLID WASTE MANAGEMENT FACILITY CLASSIFICATION.

01. ~~Below Regulatory Concern (BRC) Facilities.~~ A facility is ~~below regulatory concern (BRC)~~ provided it is a processing facility that does not manage PCS or pumpable waste, and the cumulative volume of solid waste at the facility at any one (1) time is less than or equal to three hundred (300) cubic yards. (3-24-22)()

02. ~~Tier I Facilities.~~ Tier I facilities ~~shall must~~ comply with the requirements identified in Section 011. A facility ~~shall will~~ be classified as a Tier I facility if the Department determines the facility is: (3-24-22)()

a. A landfill that only accepts, for disposal, materials that are not likely to produce leachate including, but not limited to, glass, plastic, cardboard, wood, composition roofing material, roofing paper, or ceramics, and which has a total disposal capacity of less than or equal to two thousand (2000) cubic yards; (3-24-22)()

b. A processing facility that only processes wastes including, but not limited to, untreated or unpainted wood, yard waste, sheet rock, clean paper products, animal manures, plant or crop residues, or garbage without meats or animal fats, and the cumulative volume of wastes at the facility at any one time is less than or equal to six hundred (600) cubic yards; (3-24-22)()

c. A processing facility that only manages PCS not excluded under Subsection 001.03~~1~~.a.ix. or pumpable wastes and the cumulative volume of material at the facility at any one (1) time is less than or equal to two hundred (200) cubic yards; or (3-24-22)()

d. An emergency solid waste management facility that only accepts debris resulting from a natural disaster. (3-24-22)

03. ~~Tier II Facility.~~ Tier II facilities ~~shall must~~ comply with the Tier II general siting, operational and closure requirements and any applicable Tier II facility specific requirements. Tier II facilities are not required to install ~~ground water~~ groundwater monitoring wells, leachate collection systems or liners. Facilities ~~shall will~~ be classified as a Tier II facility if the Department determines the facility is not: (1) landfilling or disposing of VSQG hazardous waste; (2) landfilling or disposing of materials with a high human pathogenic potential; (3) managing solid waste in a manner or volume that will form toxic leachate or gas; or (4) managing solid waste in a manner or volume that is likely to pose a substantial risk to human health or the environment. A Tier II facility is one that meets the four (4) above criteria and is identified below: (3-24-22)()

a. A NMSW landfill which has a total disposal capacity greater than two thousand (2000) cubic yards; (3-24-22)()
or

b. A processing facility or incinerator that has a cumulative volume of wastes at the facility at any one time that is greater than six hundred (600) cubic yards; ~~or~~ (3-24-22)()

c. A processing facility that only manages PCS not excluded under Subsection 001.031.a.ix or pumpable wastes and the cumulative volume of material at the facility at any one (1) time is greater than two hundred (200) cubic yards; or (3-24-22)()

d. A transfer station or VSQG waste management facility. (3-24-22)

04. **Tier III Facility.** Tier III facilities ~~shall~~ must comply with the Tier III general siting, operating and closure requirements, ~~ground water~~ groundwater monitoring requirements, install leachate collection systems, liners, air contaminant control systems and any applicable Tier III facility specific requirements. Facilities ~~shall~~ will be classified as a Tier III facility if the Department determines the facility is: (1) a facility landfilling or disposing of VSQG hazardous waste; (2) a facility landfilling or disposing of materials with a high human pathogenic potential; (3) a facility managing solid waste in a manner or volume that will form toxic leachate or gas; or (4) a facility managing solid waste in a manner or volume that is likely to pose a substantial risk to human health or the environment. (3-24-22)()

05. **Wood or Mill Yard Debris Facilities.** All Wood and Mill Yard Debris Facilities that are not exempt from these ~~R~~ rules as provided in Section 001.031 ~~shall~~ must be regulated as Tier I Facilities unless, based on site-specific criteria including but not limited to site geology, site soils, groundwater characteristics, distance to surface waters, and site climatic data, the Department determines the facility is more appropriately regulated under a different tier classification. Facilities not regulated as a Tier I Facility ~~shall~~ will be regulated as a Tier II Facility unless the Department determines the facility manages waste in a manner that will form toxic leachate or gas. (3-24-22)()

06. **Site Specific Classification.** An owner or operator of a facility classified as a Tier I, Tier II or Tier III facility may request to be regulated pursuant to the requirements of a lower classification. An owner or operator requesting site specific classification must submit information demonstrating to the Department that, when in compliance with the requirements of a lower classification, the facility would not cause contamination, toxic leachate or gas, or concentrations of a substance that exceed standards in the IDAPA 58.01.01 "Rules for the Control of Air Pollution in Idaho." The information included in any request under this subsection ~~shall~~ must include: (3-24-22)()

a. Characterization of waste and expected quantities of waste; (3-24-22)

b. Site characterization including; (3-24-22)

i. Site geology report; (3-24-22)

ii. Site soils report; (3-24-22)

iii. ~~Ground water~~ Groundwater report; (3-24-22)()

iv. Site climatic data; (3-24-22)

c. Facility ~~D~~ design ~~P~~ plan; (3-24-22)()

d. Operating ~~P~~ plan; and (3-24-22)()

e. Closure ~~P~~ plan. (3-24-22)()

07. **General and Site Specific Classification Process.** The Department's review of a request for a site specific classification ~~shall~~ will be conducted pursuant to the process set forth in Section 032. (3-24-22)()

010. ~~BELOW REGULATORY CONCERN~~ BRC FACILITIES.

01. Applicable Requirements. The owner and operator of a BRC facility ~~shall~~ must comply with the following ~~requirements~~ prior to accepting waste. (3-24-22)()

a. ~~Prohibited Activities.~~ The following activities are prohibited: (3-24-22)()

i. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services ~~that has not been decontaminated. "Regulated waste" and "decontaminated" for the purpose of Section 010 will have the same meaning as defined at 29 CFR 1910.1030 without having gone through the decontamination process;~~ (3-24-22)()

ii. Speculative accumulation, unless otherwise approved by the Department in writing; and (3-24-22)

iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho Code, and rules adopted thereunder, or a facility regulated under the authority of ~~T~~the Atomic Energy Act of 1954, as amended. (3-24-22)()

b. ~~Nuisance Control.~~ The owner and operator ~~shall~~ will control nuisances, including but not limited to: (3-24-22)()

i. ~~Disease or discomfort.~~ Operations at any facility ~~shall~~ will not provide sustenance to rodents or insects that cause human disease or discomfort; (3-24-22)()

ii. ~~Vector.~~ Vector control procedures ~~shall~~ will prevent or control vectors that may cause health hazards or nuisances; (3-24-22)()

iii. ~~Odor.~~ The facility ~~shall~~ will be operated to control odors and malodorous gases; and (3-24-22)()

iv. ~~Litter.~~ Effective measures ~~shall~~ will be taken to minimize the loss of debris from the facility. Debris blown from or within the facility ~~shall~~ will be collected and properly disposed to prevent objectionable accumulations. (3-24-22)()

c. ~~Bird Hazards to Aircraft.~~ No facility may handle putrescible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft ~~shall~~ will operate the facility in such a manner that birds are not a hazard to aircraft; ~~and.~~ (3-24-22)()

d. ~~Open Burning and Fires.~~ Open burning ~~is and fired are~~ prohibited at facilities except as authorized by Section 061. (3-24-22)()

02. Application Content, Review and Approval Requirements. The owner and operator of a BRC facility are not required to ~~submit an application~~ apply. (3-24-22)()

03. Documentation Requirements. The owner and operator ~~shall~~ must maintain on site documentation, such as a daily log of the quantity and type of waste received or managed, that verifies the facility's BRC status. (3-24-22)()

011. APPLICABLE REQUIREMENTS FOR TIER I FACILITIES.

01. Applicable Requirements. The owner and operator of a Tier I facility ~~shall~~ must comply with the following ~~requirements~~ prior to accepting waste. (3-24-22)()

a. ~~Prohibited Activities.~~ The following activities are prohibited: (3-24-22)()

i. Disposal in a landfill of regulated waste from any business that provides health care, support to

health care businesses, or medical diagnostic services ~~that has not been decontaminated.~~ “Regulated waste” and “decontaminated” for the purpose of Section 011 will have the same meaning as defined at 29 CFR 1910.1030 without having gone through the decontamination process; (3-24-22)()

- ii. Speculative accumulation, unless otherwise approved by the Department in writing; and (3-24-22)
- iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho Code, and rules adopted thereunder or a facility regulated under the authority of ~~the~~ Atomic Energy Act of 1954, as amended. (3-24-22)()

b. Signs. Facilities open to the ~~general~~ public ~~shall~~ will clearly post visible and legible signs at each entrance to the facility. The signs ~~shall~~ will specify at a minimum the name of the facility, the hours of operation, the waste accepted at the facility and an emergency phone number. (3-24-22)()

c. Nuisance Control. ~~The owner and operator shall~~ will control nuisances, including but not limited to: (3-24-22)()

i. Disease or Discomfort. Operations at any facility ~~shall~~ will not provide sustenance to rodents or insects that cause human disease or discomfort; (3-24-22)()

ii. Vector. Vector control procedures ~~shall~~ will prevent or control vectors that may cause health hazards or nuisances; (3-24-22)()

iii. Odor. The facility ~~shall~~ will be operated to control odors and malodorous gases; and (3-24-22)()

iv. Litter. Effective measures ~~shall~~ will be taken to minimize the loss of debris from the facility. Debris blown from or within the facility ~~shall~~ will be collected and properly disposed to prevent objectionable accumulations. (3-24-22)()

d. Facility Access. Unauthorized vehicles and persons ~~shall~~ will be prohibited access to the facility. A facility open to the public ~~shall~~ will accept waste only when an attendant is on duty. The facility ~~shall~~ will be fenced or otherwise blocked to access when an attendant is not on duty. The owner and operator ~~shall~~ will maintain the fencing or other access controls for a period of ten (10) years after closure, or another timeframe approved in writing by the Department. (3-24-22)()

e. Bird Hazards to Aircraft. No facility may handle putrescible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft ~~shall~~ will operate the facility in such a manner that birds are not a hazard to aircraft. (3-24-22)()

f. Open Burning and Fires. Open burning ~~is~~ and fires are prohibited at facilities except as authorized by Section 061. (3-24-22)()

g. Storm Water Run-On/Run-Off Controls. Implement sufficient storm water management provisions, which may incorporate a National Pollution Discharge Elimination System (NPDES) storm water pollution prevention plan, to prevent contamination of surface or ~~ground water~~ groundwater and prevent the spread and impact of contamination beyond the boundary of the facility. (3-24-22)()

h. Variance Request. An owner and operator may submit a written variance request for a variance from the requirements listed in Section 011. The owner and operator must demonstrate to the Department that the variance is at least as protective of human health and the environment as the requirements listed in Section 011. (3-24-22)()

02. Application Content, Review and Approval Requirements. The owner and operator of a Tier I facility ~~shall~~ must submit notification to the Department prior to operating. The notice ~~shall~~ must include; the owners

name, operators name, physical location of site, mailing address, facility phone number and type of solid waste management facility. (3-24-22)()

03. Documentation—Requirements. The owner and operator ~~shall~~ **must** maintain on site documentation, such as a daily log of the quantity and type of waste received, that verifies the facility's Tier I status. (3-24-22)()

012. APPLICABLE REQUIREMENTS FOR TIER II FACILITIES.

The owner and operator of a Tier II facility ~~shall~~ **must** establish compliance with the requirements of Section 012 by obtaining Department approval of the applications required in Subsection 012.02 before beginning construction and Subsection 012.04 prior to accepting waste. The owner and operator of a Tier II facility ~~shall~~ **must** meet the requirements of Subsection 012.05 prior to facility closure. (3-24-22)()

01. General Siting Requirements. The owner and operator of a Tier II facility ~~shall~~ **must** comply with the following ~~siting requirements~~: (3-24-22)()

a. Flood Plain Restriction. ~~A facility shall will~~ not be located within a one hundred (100) year flood plain if the facility will restrict the flow of the one hundred (100) year flood, reduce the temporary water storage capacity of the flood plain, or result in a washout of solid waste so as to pose a hazard to human health and the environment. (3-24-22)()

b. Endangered or Threatened Species Restriction. ~~The facility shall will~~ not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17. (3-24-22)()

c. Surface Water Restriction. ~~The active portion of a facility shall will~~ be located such that the facility ~~shall will~~ not cause contamination of surface waters, unless such surface waters are an integral part of the non-municipal solid waste management facility's operation for storm water and ~~or~~ leachate management. (3-24-22)()

d. Park, Scenic or Natural Use Restriction. ~~The active portion of a facility shall will~~ not be located closer than one thousand (1,000) feet from the boundary of any state or national park, or land reserved or withdrawn for scenic or natural use including, but not limited to, wild and scenic areas, national monuments, wilderness areas, historic sites, recreation areas, preserves and scenic trails. (3-24-22)()

e. Variance from Siting Requirement. ~~An owner or operator of a facility that cannot meet the siting requirements of Section 012 may apply for a variance from the Department. The Department shall will~~ approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of public health and the environment as the siting requirements in Section 012. (3-24-22)()

02. Siting Application. ~~Documentation shall must~~ be submitted to the Department demonstrating compliance with the ~~siting~~ requirements and restrictions specified in Subsection 012.01 within the time frames specified in Section 012. If the documentation has been certified by a qualified professional, the Director ~~shall will~~ approve the siting application unless the Director finds the evidence supports a contrary opinion. A map indicating the following ~~shall must~~ also be submitted to the Department as part of a ~~S~~siting ~~A~~application: (3-24-22)()

- a.** Highways, roads, and adjacent communities; (3-24-22)
- b.** Property boundaries; (3-24-22)
- c.** Total acreage of the site; (3-24-22)
- d.** Off-site and on-site access roads and service roads; (3-24-22)
- e.** Type(s) of land use adjacent to the facility and a description of all facilities on the site; (3-24-22)
- f.** All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, (3-24-22)

within one-quarter (1/4) mile of the proposed facility property lines; (3-24-22)

g. High tension power line rights-of-way, fuel transmission pipeline rights-of-way, and proposed and existing utilities; (3-24-22)

h. Proposed or existing fencing; (3-24-22)

i. Proposed and existing structures at the facility and within five hundred (500) feet of the facility boundary. This ~~shall~~ includes location of employee buildings, and scales (if provided); and (3-24-22)()

j. Direction of prevailing winds. (3-24-22)

03. General Operating Requirements. The owner and operator of a Tier II facility ~~shall~~ must comply with the following ~~operating requirements~~: (3-24-22)()

a. Prohibited Activities. ~~The following activities are prohibited:~~ (3-24-22)()

i. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services ~~that has not been decontaminated. "Regulated waste" and "decontaminated" for the purpose of Section 012 have the same meaning as defined at 29 CFR 1910.1030 without having gone through the decontamination process;~~ (3-24-22)()

ii. Speculative accumulation, unless otherwise approved in an operating plan; and (3-24-22)

iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho Code, and rules adopted thereunder or a facility regulated under the authority of ~~T~~the Atomic Energy Act of 1954, as amended. (3-24-22)()

b. Signs. ~~Facilities open to the general public shall will~~ clearly post visible and legible signs at each entrance to the facility specifying, at a minimum, the name of the facility, the hours of operation, the waste accepted at the facility and an emergency phone number. (3-24-22)()

c. Waste Types. ~~Only the solid waste types listed in the approved operating plan may be accepted for disposal or processing.~~ (3-24-22)()

d. Waste Monitoring and Measurement. ~~Provisions shall will~~ be made for monitoring or measuring all ~~S~~Solid ~~w~~Waste delivered to a facility. The waste monitoring program ~~shall will~~ include: (3-24-22)()

i. A daily written log listing the types and quantities of wastes received; (3-24-22)

ii. A plan for monitoring and handling receipt of unauthorized wastes; (3-24-22)

iii. Routine characterization of the wastes received; and (3-24-22)

iv. Other measures included in an approved ~~O~~operating ~~P~~plan. (3-24-22)()

e. Communication. ~~Communication devices shall will~~ be available or reasonably accessible at the site. (3-24-22)()

f. Fire Prevention and Control. ~~Adequate provisions shall will~~ be made for ~~preventing and~~ controlling or managing fires at the site. (3-24-22)()

g. Facility Access. ~~Unauthorized vehicles and persons shall will~~ be prohibited access to the facility. A facility open to the public ~~shall will~~ accept waste only when an attendant is on duty. The facility ~~shall will~~ be fenced or otherwise blocked to access when an attendant is not on duty. (3-24-22)()

h. Scavenging and Salvaging. ~~Scavenging by the public at a facility is prohibited; however, salvaging~~

may be conducted in accordance with a written ~~operations~~ operating plan and only by the owner, operator or an authorized agent. (3-24-22)()

i. ~~Nuisance Control.~~ The owner and operator ~~shall~~ will control nuisances, including but not limited to: (3-24-22)()

i. ~~Disease or Discomfort.~~ Operations at any facility ~~shall~~ will not provide sustenance to rodents or insects that cause human disease or discomfort; (3-24-22)()

ii. ~~Vector.~~ Vector control procedures ~~shall~~ will prevent or control vectors that may cause health hazards or nuisances; (3-24-22)()

iii. ~~Odor.~~ The facility ~~shall~~ will be operated to control odor and malodorous gases; and (3-24-22)()

iv. ~~Litter.~~ Effective measures ~~shall~~ will be taken to minimize the loss of debris from the facility. Debris blown from or within the facility ~~shall~~ will be collected and properly disposed to prevent objectionable accumulations. (3-24-22)()

j. ~~Bird Hazards to Aircraft.~~ No facility may handle putrescible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft ~~shall~~ will operate the facility in such a manner that birds are not a hazard to aircraft. (3-24-22)()

k. ~~Open Burning and Fires.~~ Open burning ~~is~~ and fires are prohibited at facilities except as authorized by Section 061. (3-24-22)()

l. ~~Storm Water Run-On/Run-Off Controls.~~ The operating plan ~~shall~~ will include sufficient storm water management provisions, which may incorporate a NPDES storm water pollution prevention plan, to prevent contamination of surface and ~~ground water~~ groundwater and prevent the spread and impact of contamination beyond the boundary of the facility. (3-24-22)()

m. ~~Variance Request.~~ An owner and operator of a facility may submit to the Department a written variance request for a variance from the operating requirements listed in Section 012. The Department ~~shall~~ will approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of human health and the environment as the requirements listed in Section 012. (3-24-22)()

04. Operating Plan. The owner and operator of a Tier II facility ~~shall~~ must submit to the Department an ~~O~~perating ~~P~~lan containing ~~that the~~ information ~~required by specified in~~ Subsection 012.03, within the time frames stated in Section 012. An ~~O~~perating ~~P~~lan ~~shall~~ must include a description of the wastes to be accepted, the methods for maintaining compliance with each of the applicable general operating requirements of Subsection 012.03, and complies with any applicable facility specific requirements ~~found~~ in Subsections 012.09 through 012.11. (3-24-22)()

05. Closure Requirement. The owner and operator of a Tier II facility ~~shall~~ must comply with the following closure and post-closure care requirements: (3-24-22)()

a. ~~Public Notice.~~ For a facility open to the public, the owner and operator ~~shall provide public notice~~ will publish a public notice of the facility's closure ~~by publishing a notice~~ in the local newspaper and posting signs at the facility's entrance. ~~This notice shall be published and the signs posted;~~ (3-24-22)()

i. At least thirty (30) days and no more than ninety (90) days prior to the date of last receipt of waste for a facility that has reached disposal capacity; or (3-24-22)

ii. If the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional waste, a notice ~~shall~~ will be published and signs posted at least thirty (30) days and no more than

ninety (90) days prior to closure. (3-24-22)()

b. ~~Facility Closure.~~ Unless the Department establishes ~~an alternate closure time period otherwise~~, the owner and operator ~~shall will~~ close the facility within six (6) months of the Department's approval of the ~~C~~closure ~~P~~plan. The facility ~~shall will~~ be closed in accordance with the approved ~~C~~closure ~~P~~plan. (3-24-22)()

c. ~~Clean Site/Access Control.~~ The owner and operator ~~shall will~~ close the facility by managing or removing all solid waste to prevent impact to human health or the environment and ~~installing~~ a gate or other device to prevent public access after the last receipt of waste; ~~and~~. (3-24-22)()

d. ~~Drainage and Erosion Control.~~ The owner and operator ~~shall will~~ install appropriate measures to control erosion and install appropriate measures to control the run-on and runoff from a twenty-five (25) year, twenty-four (24) hour storm event and to provide for the diversion of other surface waters from the closed facility. (3-24-22)()

e. ~~Closure Plan Certification.~~ Within thirty (30) days of closure, the owner and operator ~~shall will~~ notify the Department in writing that the facility was closed in accordance with the approved ~~C~~closure ~~P~~plan. If closure of the facility is different from the approved ~~C~~closure ~~P~~plan, the owner and operator ~~shall will~~ submit for Department review and approval documents, such as ~~as~~ "as-built" plans, showing the final conditions of the facility. (3-24-22)()

06. Closure Plan Application. Except as specified in Subsection 012.10, the owner and operator of a Tier II facility ~~shall must~~ submit to the Department a ~~C~~closure ~~P~~plan ~~A~~application containing the following information no later than ninety (90) days before the date on which the facility receives the known final receipt of wastes or, if the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional wastes, no later than one (1) year after the most recent receipt of wastes: (3-24-22)()

- a. A complete and accurate legal description of the facility; (3-24-22)
- b. A map of the facility, showing pertinent facility features, including: (3-24-22)
 - i. Facility boundaries, drainage patterns, location of fill areas, and location of access control measures; (3-24-22)
 - ii. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the facility boundary; (3-24-22)
 - iii. Location of disposal trenches and description of waste disposed; and (3-24-22)
 - iv. Proposed final contours of the closed facility, drawn to a reasonable scale with five (5) foot intervals for the operational area, and ten (10) foot intervals for the remainder of the facility; (3-24-22)
- c. Estimated date of last receipt of waste; (3-24-22)
- d. A description of how public access to the closed facility will be controlled; (3-24-22)
- e. Estimated total cubic yards, or tons, of waste in place; (3-24-22)
- f. Total acreage of the facility and acres containing waste; (3-24-22)
- g. Closure equipment and procedures to be used; (3-24-22)
- h. Texture, depth and permeability of final cover material; (3-24-22)
- i. Design and construction plan for any necessary final cover; (3-24-22)
- j. Placement, design, and management of run-on and run-off storm water controls; (3-24-22)

- k. Types of vegetation and planting procedures to be used for establishing vegetative cover; ~~and~~ (3-24-22)()
- l. Other closure information the Department determines is necessary to protect human health and the environment. (3-24-22)
07. **Documentation Requirements.** The owner and operator of a Tier II facility ~~shall~~ must maintain on site a copy of each Department-approved ~~A~~ application and ~~P~~ plan required by Section 012. (3-24-22)()
08. **Modification Application.** The owner and operator ~~shall~~ must submit to the Department for review and approval a ~~M~~ modification ~~A~~ application describing any proposed modification. The owner and operator of a Tier II facility ~~shall~~ must not implement the modification prior to Department approval. If a proposed modification alters the classification of a facility, the owner and operator ~~shall~~ must comply with the application content, review and approval requirements for the new classification. (3-24-22)()
09. **Tier II Processing Facilities.** In addition to the ~~requirements provisions listed~~ in Subsections 012.01 through 012.08, the owner and operator of a Tier II processing facility ~~shall~~ must also comply with the following ~~requirements~~: (3-24-22)()
- a. Siting Requirements: (3-24-22)
- i. ~~Ground Water.~~ The active portion of a facility ~~shall~~ will be located, designed and constructed such that the facility ~~shall~~ will not cause contamination to a drinking water source or cause contamination of the ~~ground water groundwater~~. (3-24-22)()
- ii. ~~Geologic Restrictions.~~ No facility may be located on land that would threaten the integrity of the design. (3-24-22)()
- iii. ~~Property Line Restriction.~~ The active portion of a facility ~~shall~~ will not be located closer than one hundred (100) feet to the property line. (3-24-22)()
- b. ~~Siting Application.~~ The owner and operator ~~shall~~ will provide in the Siting Application documentation that demonstrates compliance with the siting requirements specified in Subsections 012.01 and 012.09.a. (3-24-22)()
- c. Operating Requirements: (3-24-22)
- i. ~~Odor Management Plan.~~ The owner and operator of a Tier II processing facility ~~shall~~ will implement a Department approved ~~O~~ odor ~~M~~ management ~~P~~ plan designed to minimize malodorous gases. An ~~O~~ odor ~~M~~ management ~~P~~ plan ~~shall~~ will include specific operating criteria for oxygen, moisture and temperature levels appropriate for the wastes to be processed and processing technologies to be employed, methods used to maintain the specific operating criteria and a monitoring strategy that includes the frequency and parameters for monitoring the specific operating criteria. (3-24-22)()
- ii. ~~Documentation requirement.~~ The owner and operator of a processing facility ~~shall~~ will maintain documentation of compliance with Section 012, including an operational log of the methods used to maintain the operating criteria and sampling results. (3-24-22)()
- d. ~~Operating Plan.~~ The operating plan required in Subsection 012.04 ~~shall~~ will identify methods used for maintaining compliance with each applicable operating requirement of Subsections 012.03 and ~~Subsection~~ 012.09.c. (3-24-22)()
10. **Tier II Incinerators, VSQG Management Facility and Transfer Stations.** In addition to the ~~requirements provisions listed~~ in Subsections 012.01 through 012.04 ~~and Subsections~~, 012.07, and 012.08, the owner and operator of a Tier II incinerator, VSQG management facility or transfer station ~~shall~~ must comply with the following ~~requirements~~: (3-24-22)()

- a. ~~Design Requirements.~~ The owner and operator ~~shall~~ will comply with the following design requirements: (3-24-22)()
- i. A tipping floor design constructed of impermeable and durable material and designed to contain, collect, and convey any liquids to a storage or leachate management system; and (3-24-22)
 - ii. A leachate storage or management system. (3-24-22)
- b. ~~Design Application.~~ The following information ~~shall~~ will be submitted to the Department in a ~~Design Application:~~ (3-24-22)()
- i. A description of the tipping floor design; (3-24-22)
 - ii. A description of the storage or leachate management system design; (3-24-22)
 - iii. Building and construction design blueprints; (3-24-22)
 - iv. A map illustrating a storm water run-on/run-off system designed to prevent contamination of surface and ~~ground water~~ groundwater, and prevent the spread and impact of contamination beyond the boundary of the facility; and (3-24-22)()
 - v. Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes. (3-24-22)
- c. ~~Operating Requirements.~~ The owner and operator of a Tier II facility ~~shall~~ will comply with the following operating requirements: (3-24-22)()
- i. Implement cleaning procedures and waste residency times to maintain sanitary conditions on the surface of the tipping floor; and (3-24-22)
 - ii. Implement and operate a leachate storage or management system. (3-24-22)
- d. ~~Closure Requirement.~~ The owner and operator of a Tier II facility ~~shall~~ will comply with the following closure and post-closure care requirements: (3-24-22)()
- i. ~~Public Notice.~~ For a facility open to the public the owner and operator ~~shall provide~~ will publish public notice of the facility's closure ~~by publishing a notice~~ in the local newspaper and posting signs at the facility's entrance. ~~This notice shall be published and the signs posted~~ at least thirty (30) days prior to closure; (3-24-22)()
 - ii. ~~Facility Closure.~~ The owner and operator ~~shall~~ will close the facility by removing all solid waste to prevent impact to human health or the environment and installing a gate or other device to prevent public access after the last receipt of waste; (3-24-22)()
 - iii. ~~Closure Time Period.~~ Unless the Department establishes ~~an alternate closure time period~~ otherwise, the owner and operator ~~shall~~ will close the facility within ~~two (2) months~~ sixty (60) days of the Department's approval of the ~~Cclosure Pplan~~. The facility ~~shall~~ will be closed in accordance with the approved ~~Cclosure Pplan~~; and (3-24-22)()
 - iv. ~~Closure Plan Certification.~~ Within thirty (30) days of closure, the owner and operator ~~shall~~ will notify the Department in writing that the facility was closed in accordance with the approved ~~Cclosure Pplan~~. If closure of the facility is different from the approved ~~Cclosure Pplan~~, the owner and operator ~~shall~~ will submit for Department review and approval documents, such as ~~as~~ "as-built" plans, showing the final conditions of the facility. (3-24-22)()
- e. ~~Closure Plan Application.~~ The owner and operator ~~shall~~ will submit to the Department a Closure

Plan Application containing the following information no later than ninety (90) days before the date on which the facility receives the known final receipt of wastes: ~~(3-24-22)~~()

- i. A complete and accurate legal description of the facility; (3-24-22)
- ii. A map of the facility, showing pertinent facility features, including facility boundaries, drainage patterns, and location of access control measures; (3-24-22)
- iii. Estimated date of last receipt of waste; (3-24-22)
- iv. A description of how public access to the closed facility will be controlled; (3-24-22)
- v. Closure equipment and procedures to be used; (3-24-22)
- vi. Anticipated future uses for the facility; and (3-24-22)
- vii. Other closure information the Department determines is necessary to protect human health and the environment. (3-24-22)

11. Tier II NMSWLF. In addition to the requirements in Subsections 012.01 through 012.08, the owner and operator of a Tier II NMSWLF ~~shall~~ must also comply with the following ~~requirements:~~ ~~(3-24-22)~~()

- a. Siting ~~R~~ requirements: ~~(3-24-22)~~()
 - i. ~~Wetlands.~~ A facility ~~shall~~ will not be located in wetlands, except as provided in 40 CFR 257.9. ~~(3-24-22)~~()
 - ii. ~~Ground Water.~~ The active portion of a facility ~~shall~~ will be located, designed and constructed such that the facility ~~shall~~ will not cause contamination to a drinking water source or cause contamination of the ~~ground water~~ groundwater. ~~(3-24-22)~~()
 - iii. ~~Geologic Restrictions.~~ No facility may be located on land that would threaten the integrity of the design. ~~(3-24-22)~~()
 - iv. ~~Property Line Restriction.~~ The active portion of a facility ~~shall~~ will not be located closer than one hundred (100) feet to the property line. ~~(3-24-22)~~()
- b. ~~Siting Application.~~ The owner and operator ~~shall~~ will provide in the ~~S~~iting ~~A~~pplication documentation that demonstrates compliance with the siting requirements specified in Subsections 012.01 and 012.11.a.; ~~(3-24-22)~~()
- c. ~~Design Application.~~ The owner and operator ~~shall~~ will provide the following information ~~illustrated on a facility map~~ for design approval: ~~(3-24-22)~~()
 - ~~i. A facility map illustrating:~~ ~~(3-24-22)~~
 - ~~(1)i.~~ Surface water and erosion control systems; (3-24-22)
 - ~~(2)ii.~~ Proposed fill area, including the location of waste disposal trenches or cells, noting the locations of trenches used for separated wastes such as animal carcasses, tree trunks, stumps, bulky wastes, car bodies, asbestos, and ~~petroleum contaminated soils~~ PCS; ~~(3-24-22)~~()
 - ~~(3)iii.~~ Location of borrow areas; (3-24-22)
 - ~~(4)iv.~~ Design elevation grade of final cover; (3-24-22)
 - ~~(5)v.~~ Soil and water table test boring holes, wells, or excavations; (3-24-22)

- ~~(6)~~vi. Proposed receiving, storage, and processing areas; (3-24-22)
- ~~(7)~~vii. Proposed trench layout and development; and (3-24-22)
- ~~(8)~~viii. Contour lines at five (5) foot intervals within the operating area and ten (10) foot intervals to the facility boundary. (3-24-22)
- d. ~~Operating Requirements~~—The owner and operator of a NMSWLF ~~shall~~ will comply with the following operating requirements: (3-24-22)()
 - i. Compaction and placement of waste in locations consistent with the approved operating plan; (3-24-22)
 - ii. Provision for storage of waste during periods when the NMSWLF is inaccessible; (3-24-22)
 - iii. Application of a six (6) inch compacted soil cover layer on exposed waste as necessary to prevent nuisance and vector conditions at periods consistent with the approved operating plan. An owner and operator may request that the Department approve an alternate cover that addresses vectors, litter, fire, odor, and scavenging concerns; (3-24-22)
 - iv. Placement of an interim cover layer of twelve (12) inches of compacted soil between lifts to provide erosion control and structural stability. An owner and operator may request that the Department approve an alternate interim cover that addresses erosion, and stability for subsequent lifts; and (3-24-22)()
 - v. Preservation of existing vegetation where attainable. (3-24-22)
- e. ~~Operating Plan~~—The operating plan required in Subsection 012.04 ~~shall~~ will identify the methods used for maintaining compliance with each applicable operating requirement of Subsection 012.03 and Subsection 012.11.d.; (3-24-22)()
- f. ~~Closure Requirements~~—The owner and operator of a Tier II NMSWLF ~~shall~~ will comply with the following closure requirements: (3-24-22)()
 - i. ~~Final Cover~~—Within seven (7) days of the date of last receipt of waste, a cover layer ~~shall~~ will be applied to prevent nuisances and vector conditions. Within one hundred and twenty (120) days of the date of last receipt of waste, a final cover layer of eighteen (18) inches of compacted soil with an approved in-place permeability designed to minimize infiltration, or its functional equivalent, and, a six (6) inch soil layer that minimizes erosion and sustains plant growth ~~shall~~ will be constructed; (3-24-22)()
 - ii. ~~Facility Stabilization~~—All disturbed portions of the facility ~~shall~~ will be stabilized. Stabilization practices may include but are not limited to: establishment of vegetation, mulching, geotextiles, and sod stabilization; (3-24-22)()
 - iii. ~~Slope Stability~~—Finished grade ~~shall~~ will be at a minimum of two percent (2%) and a maximum of thirty- three percent (33%) slope on the final surface of the completed fill area, after settlement; and (3-24-22)()
 - iv. ~~Drainage Control~~—The completed landfill ~~shall~~ will be graded to prevent surface water ponding and erosion, and to conform to the local topography. (3-24-22)()
- g. ~~Closure Plan~~—The owner and operator ~~shall~~ will provide in the ~~C~~losure ~~P~~lan documentation that demonstrates compliance with closure requirements specified in Subsections 012.05 and 012.11.f. (3-24-22)()
- h. Environmental Covenants: (3-24-22)
 - i. After completion and certification of closure of a NMSWLF, the owner and operator ~~shall~~ will record an environmental covenant, pursuant to the Uniformed Environmental Covenants Act (UECA) Chapter 30,

Title 55, Idaho Code, on the property where the landfill facility is located, and its future use may be restricted in accordance with a post-closure care plan. A copy of the environmental covenant ~~shall~~ will be sent to the Department after recording with the county clerk. (3-24-22)()

ii. The owner may request permission from the Department to remove the environmental covenant if all wastes are removed from the facility. (3-24-22)()

iii. Federal agencies with responsibility for management of landfills on federal property ~~shall~~ will make an environmental covenant or notation in the federal property records for the affected property. If the subject property is ever sold or transferred by the federal government, a notation on the deed or patent ~~shall~~ will be made. (3-24-22)()

i. ~~Post-Closure Care Plan.~~ Owners and operators of a NMSWLF ~~shall~~ will submit, in accordance with the time frames specified in Subsection 012.06, to the Department for review and approval a ~~P~~post-~~C~~closure ~~C~~care ~~P~~plan, ~~shall~~ obtain Department approval of the ~~P~~plan, and ~~shall~~ conduct post-closure care in accordance with the ~~P~~plan. The ~~P~~post-~~C~~closure ~~C~~care ~~P~~plan ~~shall typically~~ will contain the following provisions: (3-24-22)()

i. The name and address of an agent authorized to accept communications or service during the post-closure period. The name may be changed during the post-closure period by providing the Department with twenty (20) days advance written notice of the change; (3-24-22)

ii. ~~Provisions~~ To maintain the integrity and effectiveness of the final cover; (3-24-22)()

iii. ~~Provisions~~ To continue to maintain and operate the systems required in the operating plan including run-on/run-off control systems; (3-24-22)()

iv. ~~Provisions~~ To maintain appropriate security of the closed facility; (3-24-22)()

v. ~~Provisions~~ To provide for routine facility inspections by the owner and operator to ensure compliance with the ~~P~~post-~~C~~closure ~~C~~care ~~P~~plan; and (3-24-22)()

vi. A description of the planned use(s) of the property during the post-closure care period: (3-24-22)

j. Post-closure care for the NMSWLF ~~shall~~ will be conducted for a period of five (5) years, unless the Department establishes in writing an alternate facility-specific post-closure care period. (3-24-22)()

k. ~~Post-Closure Standards and Inspection.~~ Post-closure use or operation of the site ~~shall~~ will not disturb any final cover or storm water control systems in a manner that will increase the potential to threaten human health or the environment. (3-24-22)()

l. The approved ~~P~~post-~~C~~closure ~~C~~care ~~P~~plan shall be maintained and available for review on request by the Department. (3-24-22)()

013. APPLICABLE REQUIREMENTS FOR TIER III FACILITIES.

The owner and operator of a Tier III facility ~~shall~~ must establish compliance with the requirements of Section 013 by obtaining Department approval of the applications required in Subsection 013.02 before beginning construction and Subsection 013.04 prior to accepting waste. The owner and operator of a Tier III facility ~~shall~~ must meet the requirements of Subsection 012.07 prior to facility closure. (3-24-22)()

01. General Siting Requirements. The owner and operator of a Tier III facility ~~shall~~ must comply with the following ~~siting requirements~~: (3-24-22)()

a. ~~Flood Plain Restriction.~~ A facility ~~shall~~ will not be located within a one hundred (100) year flood plain if the facility will restrict the flow of the one hundred (100) year flood, reduce the temporary water storage capacity of the flood plain, or result in a washout of solid waste so as to pose a hazard to human health and the environment. (3-24-22)()

b. ~~Endangered or Threatened Species Restriction.~~ The facility ~~shall~~ will not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17.

(3-24-22)()

c. ~~Surface Water Restriction.~~ The active portion of a facility ~~shall~~ will be located such that the facility ~~shall~~ will not cause contamination of surface waters, unless such surface waters are an integral part of the non-municipal solid waste management facility's operation for storm water and ~~or~~ leachate management.

(3-24-22)()

d. ~~Ground Water.~~ The active portion of the facility ~~shall~~ will be located, designed and constructed such that the facility ~~shall~~ will not cause contamination to a drinking water source or cause contamination of ~~ground water~~ groundwater.

(3-24-22)()

e. ~~Geologic Restrictions.~~ No facility may be located on land that would threaten the integrity of the design.

(3-24-22)()

f. ~~Property Line Restriction.~~ The active portion of a facility ~~shall~~ will not be located closer than one hundred (100) feet to the property line.

(3-24-22)()

g. ~~Park, Scenic or Natural Use Restriction.~~ The active portion of a facility ~~shall~~ will not be located closer than one thousand (1,000) feet from the boundary of any state or national park, or land reserved or withdrawn for scenic or natural use including, but not limited to, wild and scenic areas, national monuments, wilderness areas, historic sites, recreation areas, preserves and scenic trails.

(3-24-22)()

h. ~~Variance from Siting Requirement.~~ Any facility that does not meet the siting requirements of Section 013 may apply for a variance from the Department. The Department may approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of public health and the environment as the siting requirements in Section 013.

(3-24-22)()

02. Siting Application. Documentation ~~shall~~ must be submitted to the Department demonstrating compliance with the ~~siting~~ requirements and restrictions specified in Subsection 013.01 within the time frames specified in Section 013. If the documentation has been certified by a qualified professional, the Director ~~shall~~ will approve the ~~siting~~ application unless the Director finds the evidence supports a contrary opinion. A map indicating the following ~~shall~~ must also be submitted to the Department as part of a ~~S~~siting ~~A~~pplication:

(3-24-22)()

- a. Highways, roads, and adjacent communities; (3-24-22)
- b. Property boundaries; (3-24-22)
- c. Total acreage of the site; (3-24-22)
- d. Off-site and on-site access roads and service roads; (3-24-22)
- e. Type(s) of land use adjacent to the facility and a description of all facilities on the site; (3-24-22)
- f. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the proposed facility property lines; (3-24-22)
- g. High tension power line rights-of-way, fuel transmission pipeline rights-of-way, and proposed and existing utilities; (3-24-22)
- h. Proposed or existing fencing; (3-24-22)
- i. Proposed and existing structures at the facility and within five hundred (500) feet of the facility boundary. This ~~shall~~ will include location of employee buildings, and scales (if provided); and (3-24-22)()
- j. Direction of prevailing winds. (3-24-22)

- 03. General Operating Requirements.** The owner and operator of a Tier III facility ~~shall~~ must comply with the following ~~operating requirements~~: (3-24-22)()
- a. Prohibited Activities.** The following activities are prohibited: (3-24-22)()
 - i. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services ~~that has not been decontaminated. "Regulated waste" and "decontaminated" for the purpose of Section 013 have the same meaning as defined at 29 CFR 1910.1030 without having gone through the decontamination process;~~ (3-24-22)()
 - ii. Speculative accumulation, unless otherwise approved in an operating plan; and (3-24-22)
 - iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho Code and rules adopted thereunder or a facility regulated under the authority of ~~T~~the Atomic Energy Act of 1954, as amended. (3-24-22)()
 - b. Signs.** Facilities open to the ~~general~~ public ~~shall~~ will clearly post visible and legible signs at each entrance to the facility specifying, at a minimum, the name of the facility, the hours of operation, the waste accepted at the facility and an emergency phone number. (3-24-22)()
 - c. Waste Types.** Only the solid waste types listed in the approved operating plan may be accepted for disposal or processing. (3-24-22)()
 - d. Waste Monitoring and Measurement.** Provisions ~~shall~~ will be made for monitoring or measuring all solid waste delivered to a facility. The waste monitoring program ~~shall~~ will include: (3-24-22)()
 - i. A daily written log listing the types and quantities of wastes received; (3-24-22)
 - ii. A plan for monitoring and handling receipt of unauthorized wastes; (3-24-22)
 - iii. Routine characterization of the wastes received; and (3-24-22)
 - iv. Other measures included in an approved ~~O~~operating ~~P~~plan. (3-24-22)()
 - e. Communication.** Communication devices ~~shall~~ will be available or reasonably accessible at the site. (3-24-22)()
 - f. Fire Prevention and Control.** Adequate provisions ~~shall~~ will be made for controlling or managing fires at the site. (3-24-22)()
 - g. Facility Access.** Unauthorized vehicles and persons ~~shall~~ will be prohibited access to the facility. A facility open to the public ~~shall~~ will accept waste only when an attendant is on duty. The facility ~~shall~~ will be fenced or otherwise blocked to access when an attendant is not on duty. (3-24-22)()
 - h. Scavenging and Salvaging.** Scavenging by the public at a facility is prohibited; however, salvaging may be conducted in accordance with a written operating plan and only by the owner, operator or an authorized agent. (3-24-22)()
 - i. **Nuisance Control.** The owner and operator ~~shall~~ will control nuisances, including but not limited to: (3-24-22)()
 - i. **Disease or Discomfort.** Operations at any facility ~~shall~~ will not provide sustenance to rodents or insects that cause human disease or discomfort; (3-24-22)()
 - ii. **Vector.** Vector control procedures ~~shall~~ will prevent or control vectors that may cause health hazards or nuisances; (3-24-22)()

- iii. ~~Odor.~~The facility ~~shall~~ will be operated to control odors and malodorous gases; and (3-24-22)()
- iv. ~~Litter.~~Effective measures ~~shall~~ will be taken to minimize the loss of debris from the facility. Debris blown from or within the facility ~~shall~~ will be collected and properly disposed to prevent objectionable accumulations. (3-24-22)()
- j. ~~Bird Hazards to Aircraft.~~No facility may handle putrescible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft ~~shall~~ will operate the facility in such a manner that birds are not a hazard to aircraft. (3-24-22)()
061. k. ~~Open Burning and Fires.~~Open burning is prohibited at facilities except as authorized by Section (3-24-22)()
- l. ~~Storm Water Run-On/Run-Off Controls.~~The operating plan ~~shall~~ will include sufficient storm water management provisions, which may incorporate a NPDES storm water pollution prevention plan, to prevent contamination of ground or surface water and prevent the spread and impact of contamination beyond the boundary of the facility. (3-24-22)()
- m. ~~Variance Request.~~An owner and operator may submit to the Department a written variance request for a variance from the operating requirements listed in Section 013. The Department ~~shall~~ will approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of human health and the environment as the requirements listed in Section 013. (3-24-22)()
04. **Operating Plan.** The owner and operator of a Tier III facility ~~shall~~ must submit to the Department an ~~O~~perating ~~P~~plan containing that information ~~required by specified in~~ Subsection 013.03, within the time frames stated in Section 013. An ~~O~~perating ~~P~~plan ~~shall~~ must include a description of the wastes to be accepted, the methods for maintaining compliance with each of the applicable general operating requirements of Subsection 013.03, and complies with any applicable facility specific requirements found in Subsections 013.11 through 013.13. (3-24-22)()
05. **Ground Water ~~Groundwater~~ Monitoring Requirements.** The owner and operator of a Tier III facility ~~shall~~ must comply with the following ~~ground water monitoring requirements~~: (3-24-22)()
- a. Install and maintain ~~ground water~~ groundwater monitoring wells at the point of compliance as approved by the Department; (3-24-22)()
- b. Within thirty (30) days of completion of each well, submit a copy of the geologic log and record of well construction to the Department; (3-24-22)
- c. Monitor the ~~ground water~~ groundwater quarterly, unless otherwise directed by the Department. Constituents to be monitored ~~shall~~ will be those listed in ~~40 CFR Part~~ 40 CFR 257.24(a) unless otherwise authorized by the Department; and (3-24-22)()
- d. The owner and operator of any facility required to monitor ~~ground water~~ groundwater pursuant to Section 013 ~~shall~~ will continue the approved monitoring schedule for five (5) years following facility closure, unless otherwise approved by the Department upon request of the owner and operator for a modified monitoring schedule. (3-24-22)()
06. **Ground Water ~~Groundwater~~ Monitoring Application.** The following information ~~shall~~ must be submitted to the Department in a ~~Ground Water~~ groundwater ~~M~~onitoring ~~A~~pplication: (3-24-22)()
- a. A map showing soil types, depth ~~to ground water,~~ ground water and flow direction of groundwater, and locations of proposed ~~ground water~~ groundwater monitoring wells; and (3-24-22)()

- b. A monitoring schedule indicating sample frequency and constituents to be analyzed. (3-24-22)

07. Closure Requirement. The owner and operator of a Tier III facility ~~shall~~ must comply with the following ~~closure requirements~~: (3-24-22)()

- a. ~~Public Notice.~~ For a facility open to the public the owner and operator ~~shall provide~~ will publish public notice of the facility's closure ~~by publishing a notice~~ in the local newspaper and posting signs at the facility's entrance. ~~This notice shall be published and the signs posted;~~ (3-24-22)()

- i. At least thirty (30) days and no more than ninety (90) days prior to the date of last receipt of waste for a facility that has reached disposal capacity; or (3-24-22)

- ii. If the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional waste, a notice ~~shall~~ will be published and signs posted at least thirty (30) days and no more than ninety (90) days prior to closure. (3-24-22)()

- b. ~~Facility Closure.~~ Unless the Department establishes ~~an alternate closure time period~~ otherwise, the owner and operator ~~shall~~ will close the facility within six (6) months of the Department's approval of the ~~C~~closure ~~P~~plan. The facility ~~shall~~ will be closed in accordance with the approved ~~C~~closure ~~P~~plan. (3-24-22)()

- c. ~~Clean Site/Access Control.~~ The owner and operator ~~shall~~ will close the facility by managing or removing all solid waste to prevent impact to human health or the environment and ~~shall~~ will install a gate or other device to prevent public access after the last receipt of waste; (3-24-22)()

- d. ~~Drainage and Erosion Control.~~ The owner and operator ~~shall~~ will install appropriate measures to control erosion and install appropriate measures to control the run-on and runoff from a twenty-five (25) year, twenty-four (24) hour storm event and to provide for the diversion of other surface waters from the closed facility; and (3-24-22)()

- e. ~~Closure Plan Certification.~~ Within thirty (30) days of closure, the owner and operator ~~shall~~ will notify the department in writing that the facility was closed in accordance with the approved ~~C~~closure ~~P~~plan. If closure of the facility is different from the approved ~~C~~closure ~~P~~plan, the owner and operator ~~shall~~ will submit for Department review and approval documents, such as "as-built" plans, showing the final conditions of the facility. (3-24-22)()

08. Closure Plan Application. The owner and operator of a Tier III facility ~~shall~~ submit to the Department a ~~C~~closure ~~P~~plan ~~A~~application containing the information no later than ninety (90) days before the date on which the facility receives the known final receipt of wastes or, if the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional wastes, no later than one (1) year after the most recent receipt of wastes. The following information ~~shall~~ must be submitted to the Department in a ~~C~~closure ~~A~~application: (3-24-22)()

- a. A complete and accurate legal description of the facility; (3-24-22)

- b. A map of the facility, showing pertinent facility features, including: (3-24-22)

- i. Facility boundaries, drainage patterns, location of fill areas, and location of access control measures; (3-24-22)

- ii. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the facility boundary; (3-24-22)

- iii. Location of disposal trenches and description of waste disposed; and (3-24-22)

- iv. Proposed final contours of the closed facility, drawn to a reasonable scale with five (5) foot intervals for the operational area, and ten (10) foot intervals for the remainder of the facility; (3-24-22)

- c. Estimated date of last receipt of waste; (3-24-22)()
- d. A description of how public access to the closed facility will be controlled; (3-24-22)()
- e. Estimated total cubic yards, or tons, of waste in place; (3-24-22)()
- f. Total acreage of the facility and acres containing waste; (3-24-22)()
- g. Closure equipment and procedures to be used; (3-24-22)()
- h. Texture, depth and permeability of final cover material; (3-24-22)()
- i. Design and construction plan for any necessary final cover; (3-24-22)()
- j. Placement, design, and management of run-on and run-off storm water controls; (3-24-22)()
- k. Types of vegetation and planting procedures to be used for establishing vegetative cover; (3-24-22)()
- l. Details of any proposed changes to any existing groundwater monitoring system; (3-24-22)()
- m. Details of any proposed changes to any existing landfill gas control system; (3-24-22)()
- n. Details of any proposed changes to any existing leachate collection system; and (3-24-22)
- o. Other closure information the Department determines is necessary to protect human health and the environment. (3-24-22)

09. Documentation Requirements. The owner and operator of a Tier III facility ~~shall~~ must maintain, on site, each Department-approved application required by Section 013. (3-24-22)()

10. Modification Application. The owner and operator ~~shall~~ must submit to the Department a ~~M~~modification ~~A~~application describing the proposed modification no less than sixty (60) days prior to the proposed modification of the facility. The owner and operator of a Tier III facility ~~shall~~ must not implement the modification prior to Department approval. If a proposed modification alters the classification of a facility, the owner and operator ~~shall~~ must comply with the application content, review and approval requirements for the new classification. (3-24-22)()

11. Tier III Processing Facilities. In addition to the requirements in Subsections 013.01 through 013.10, the owner and operator of a Tier III processing facility ~~shall~~ must comply with the following ~~requirements~~: (3-24-22)()

a. ~~Odor Management Plan.~~ The owner and operator of a Tier III processing facility ~~shall~~ will implement a Department approved ~~O~~odor ~~M~~management ~~P~~plan designed to minimize malodorous gases. An ~~O~~odor ~~M~~management ~~P~~plan ~~shall~~ will include specific operating criteria for oxygen, moisture and temperature levels appropriate for the wastes to be processed and processing technologies to be employed; methods used to maintain the specific operating criteria and a monitoring strategy that includes the frequency and parameters for monitoring the specific operating criteria; (3-24-22)()

b. ~~Additional Requirements for PCS.~~ Owners and operators of Tier III PCS processing facilities ~~shall~~ will comply with the following applicable requirements: (3-24-22)()

- i. Leachate collection and control system to prevent contamination of ground and surface waters; (3-24-22)
- ii. Liner designed to prevent ground and surface water contamination. The liner design ~~shall~~ will

account for the types of wastes handled and the potential for migration of liquids and gaseous contaminants to ~~ground water; and groundwater;~~ groundwater; (3-24-22)()

iii. Air emission control system to prevent discharges of air pollutants; ~~and~~ (3-24-22)()

iv. An owner and operator of a PCS processing facility may submit a written request for a variance from the leachate control and liner requirements. The owner and operator must demonstrate that the variance is at least as protective of surface and ~~ground water~~ groundwater as the leachate collection system and liner. (3-24-22)()

c. ~~Design Application.~~The following information ~~shall~~ will be submitted to the Department in a Design Application: (3-24-22)()

i. Building and construction design blueprints; (3-24-22)

ii. A map illustrating a storm water run-on/run-off system designed to prevent contamination of ground or surface water or and prevent contamination beyond the boundary of the facility; (3-24-22)

iii. Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes; and (3-24-22)

iv. ~~Design and Construction Requirements.~~The owner and operator of a Tier III PCS processing facility ~~shall~~ will submit for Department review and approval the following information as part of the ~~D~~Aesign ~~Application:~~ (3-24-22)()

(1) A hydrogeologic evaluation, including the potential for migration of contamination to ground or surface water; (3-24-22)

(2) A detailed description of treatment methods to be used; (3-24-22)

(3) Design plans for a leachate collection and control system to prevent ground and surface water contamination from the leachate control system; (3-24-22)

(4) Design plans for an air emissions control system to prevent discharges of air pollutants; and (3-24-22)

(5) Design plans for a liner designed to prevent ground or surface water contamination. The liner design ~~shall~~ will account for the types of wastes handled and the potential for migration of liquid and gaseous contaminants to ~~ground water~~ groundwater. (3-24-22)()

d. ~~Operating Plan.~~The owner and operator of a PCS processing facility ~~shall~~ will submit for Department review and approval the following information as part of the Subsection 013.04, ~~O~~Operating ~~P~~Plan: (3-24-22)()

i. A sampling plan that describes the methods and frequency that the owner and operator will use to sample and analyze the wastes when received, during processing, and on final testing of processed material; and (3-24-22)

ii. A description of how the owner and operator will maintain and operate the liner, leachate collection and control system, and air emission control system consistent with the approved design application. (3-24-22)

e. ~~Documentation Requirement.~~The owner and operator of a processing facility ~~shall~~ will maintain documentation of compliance with Section 013, including an operational log of the methods used to maintain the operating criteria and sampling results. (3-24-22)

12. Tier III Incinerators. In addition to the requirements in Subsections 013.01 through 013.04 and Subsections 013.09 and 013.10, the owner and operator of a Tier III incinerator ~~shall~~ must comply with the following

requirements: (3-24-22)()

a. ~~Design Requirements.~~The owner and operator of an incinerator comply with the following design requirements: (3-24-22)()

i. A tipping floor constructed of impermeable and durable material and designed to contain, collect, and convey any liquids to a storage or leachate management system: ~~and~~ (3-24-22)()

ii. A storage or leachate management system. (3-24-22)

b. ~~Design Application.~~The following information ~~shall will~~ be submitted to the Department in a ~~D~~design ~~A~~application: (3-24-22)()

i. A description of the tipping floor design; (3-24-22)

ii. A description of the storage or leachate management system design; (3-24-22)

iii. Building and construction design blueprints; (3-24-22)

iv. A map illustrating a storm water run-on/run-off system designed to prevent ground or surface water contamination, or contamination from the facility beyond the boundary of the facility; (3-24-22)

v. Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes; and (3-24-22)

vi. Any facility specific design elements required by these rules. (3-24-22)

c. ~~Operating Requirements.~~The owner and operator of an incinerator ~~shall must~~ comply with the following operating requirements: (3-24-22)()

i. Maintain and operate the tipping floor to control odors, insects, and rodents; (3-24-22)

ii. Implement cleaning procedures and waste residency times used to maintain sanitary conditions on the surface of the tipping floor; and (3-24-22)

iii. Implement a storage or leachate management system operation. (3-24-22)

d. If it is determined that the tipping floor or leachate management system integrity has been breached, or waste has been handled or stored outside of the containment of the tipping floor, unless allowed in the facility ~~O~~operating ~~P~~plan, the owner and operator of the Tier III incinerator ~~shall will~~ comply with Subsections 013.05 through 013.08. (3-24-22)()

13. **Tier III NMSWLFs.** In addition to the requirements in Subsections 013.01 through 013.10, the owner and operator of a Tier III NMSWLF ~~shall must~~ comply with the following ~~requirements~~: (3-24-22)()

a. ~~Siting Requirements.~~A facility ~~shall will~~ not be located in wetlands, except as provided in 40 CFR 257.9; (3-24-22)()

b. ~~Siting Application.~~The owner and operator ~~shall will~~ include in the ~~S~~siting ~~A~~application documentation demonstrating compliance with the requirement specified in Subsection 013.13.a.; (3-24-22)()

c. ~~Design and Construction Requirements.~~The owner and operator of a NMSWLF ~~shall will~~ comply with the following design and construction requirements: (3-24-22)()

i. ~~Leachate Collection and Control System.~~A leachate collection and control system ~~shall will~~ be constructed to prevent ground and surface water contamination; (3-24-22)()

ii. ~~Liner~~-A liner designed to prevent ground or surface water contamination ~~shall will~~ be installed. The liner design ~~shall will~~ account for the types of wastes handled and the potential for migration of liquid and gaseous contamination to ground or surface water; (3-24-22)()

iii. ~~Landfill Emission Control System~~-Appropriate toxic and flammable gas monitoring devices ~~shall will~~ be installed where the location, geophysical condition, and waste characteristics indicate that there is a reasonable probability that the facility will generate toxic and flammable gas: exceeding twenty-five (25) percent of the lower explosive limit for gases in facility structures (excluding gas control or gas recovery system components); exceeding the lower explosive limit at the property boundary; or otherwise presenting a potential threat to public health or the environment; and (3-24-22)()

iv. An owner ~~or~~ and operator may submit a written request for a variance from the leachate collection and control system, liner, or emission control system requirements. The Department may approve the variance upon demonstration by the owner ~~or~~ and operator that the variance is at least as protective of human health and the environment as the leachate collection and control system, liner, or emission control system; (3-24-22)()

d. ~~Design Application~~-The following information ~~shall will~~ be submitted to the Department in a ~~D~~esign Application: (3-24-22)()

i. Design plans ~~shall will~~ address the need for and include as required a leachate collection and control system, liner, and emission control systems in Subsection 013.13.c. and; (3-24-22)()

ii. A facility map illustrating: (3-24-22)

(1) Surface water and erosion control systems; (3-24-22)

(2) Proposed fill area, including the location of waste disposal trenches or cells, noting the locations of trenches used for separated wastes such as animal carcasses, tree trunks, stumps, bulky wastes, car bodies, asbestos, and petroleum contaminated soils; (3-24-22)

(3) Location of borrow areas; (3-24-22)

(4) Design elevation grade of final cover; (3-24-22)

(5) Soil and water table test boring holes, wells, or excavations; (3-24-22)

(6) Proposed receiving, storage, and processing areas; (3-24-22)

(7) Proposed trench layout and development; and (3-24-22)()

(8) Contour lines at five (5) foot intervals within the operating area and ten (10) foot intervals to the facility boundary; (3-24-22)()

(9) Building and construction design blueprints; and (3-24-22)()

(10) Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes; and (3-24-22)()

e. ~~Operating Requirements~~-The owner and operator of a NMSWLF ~~shall will~~ comply with the following operating requirements: (3-24-22)()

i. Compaction and placement of waste in locations consistent with the approved operations plan; (3-24-22)

ii. Provision for storage of waste during periods when the NMSWLF is inaccessible; (3-24-22)

iii. Application of a six (6) inch compacted soil cover layer on exposed waste as necessary to prevent

nuisance and vector conditions at periods consistent with the approved operations plan. An owner and operator may request that the Department approve an alternate cover that addresses vectors, litter, fire, odor, and scavenging concerns; (3-24-22)

iv. Placement of an interim cover layer of twelve (12) inches of compacted soil between lifts to provide erosion control and structural stability. An owner and operator may request that the Department approve an alternate interim cover that addresses erosion, and stability for subsequent lifts; (3-24-22)

v. Maintenance and operation of a leachate collection and control system and air emission control system consistent with the approved design application; and (3-24-22)

vi. Preservation of existing vegetation where attainable;: (3-24-22)()

f. ~~Operating Plan~~—The operating plan required in Section 013 ~~shall will~~ identify the methods used for maintaining compliance with each applicable operating requirement of Subsection 013.03. and Subsection 013.13.e. including but not limited to the type, the method of compaction and the frequency of application of respective cover materials; (3-24-22)()

g. ~~Closure Requirements~~—The owner and operator of a NMSWLF ~~shall will~~ comply with the following closure requirements: (3-24-22)()

i. ~~Final Cover~~—Within seven (7) days of the date of last receipt of waste, a cover layer ~~shall will~~ be applied to prevent nuisances and vector conditions. Within one hundred and twenty (120) days of the date of last receipt of waste, a final cover layer of eighteen (18) inches of compacted soil with an approved in-place permeability designed to minimize infiltration, or its functional equivalent, and, a six (6) inch soil layer that minimizes erosion and sustains plant growth ~~shall will~~ be constructed; (3-24-22)()

ii. ~~Facility Stabilization~~—All disturbed portions of the facility ~~shall will~~ be stabilized. Stabilization practices may include but are not limited to: establishment of vegetation, mulching, geotextiles, and sod stabilization; (3-24-22)()

iii. ~~Slope Stability~~—Finished grade ~~shall will~~ be at a minimum of two percent (2%) and a maximum of thirty- three percent (33%) slope on the final surface of the completed fill area, after settlement; and (3-24-22)()

iv. ~~Drainage Control~~—The completed landfill ~~shall will~~ be graded to prevent surface water ponding and erosion, and to conform to the local topography;: (3-24-22)()

h. Environmental Covenants: (3-24-22)

i. After completion and certification of closure of a NMSWLF, the owner and operator ~~shall will~~ record an environmental covenant, pursuant to the Uniformed Environmental Covenants Act (UECA) Chapter 30, Title 55, Idaho Code, on the property where the landfill facility is located and its future use may be restricted in accordance with a post-closure care plan. A copy of the environmental covenant will be sent to the Department after recording with the county clerk;: (3-24-22)()

ii. The owner may request permission from the Department to remove the environmental covenant if all wastes are removed from the facility;: and (3-24-22)()

iii. Federal agencies with responsibility for management of landfills on federal property ~~shall will~~ make an environmental covenant or notation in the federal property records for the affected property. If the subject property is ever sold or transferred by the federal government, a notation on the deed or patent ~~shall will~~ be made;: (3-24-22)()

i. ~~Closure Plan~~—The owner and operator ~~shall will~~ provide in the ~~C~~losure ~~P~~lan documentation that demonstrates compliance with closure requirements specified in Subsections 013.07 and 013.13.g.;: (3-24-22)()

j. ~~Post-Closure Care Plan~~—Owners and operators of a NMSWLF ~~shall will~~ submit, in accordance with

the time frames specified in Subsection 013.08, to the Department for review and approval a ~~P~~post-~~C~~closure ~~C~~care ~~P~~plan, ~~shall will~~ obtain Department approval of the ~~P~~plan, and ~~shall will~~ conduct post-closure care in accordance with the Plan: (3-24-22)()

i. Unless the Department determines otherwise, the ~~P~~post-~~C~~closure ~~C~~care ~~P~~plan ~~shall will~~ contain ~~the following provisions~~: (3-24-22)()

(1) The name and address of an agent authorized to accept communications or service during the post-closure period. The name may be changed during the post-closure period by providing the Department with twenty (20) days advance written notice of the change; (3-24-22)

(2) ~~Provisions t~~To maintain the integrity and effectiveness of the final cover; (3-24-22)()

(3) ~~Provisions f~~To continue to maintain and operate the systems required in the operating plan, including: run-on/run-off control systems, leachate collection and control systems, groundwater monitoring systems, and gas monitoring systems; (3-24-22)()

(4) ~~Provisions t~~To maintain appropriate security of the closed facility; (3-24-22)()

(5) ~~Provisions f~~For routine facility inspections by the owner and operator to insure compliance with the Post-Closure Care Plan; and (3-24-22)()

(6) A description of the planned use(s) of the property during the post-closure care period:; (3-24-22)()

ii. Post-closure care for the NMSWLF ~~shall will~~ be conducted for a minimum of five (5) years, but not more than thirty (30) years, as necessary to protect human health and the environment:; (3-24-22)()

iii. ~~Post-Closure Standards and Inspection~~ Post-closure use or operation of the site ~~shall will~~ not disturb any final cover, liner or other component of the containment system in a manner that will increase the potential to threaten human health or the environment:; (3-24-22)()

iv. The approved ~~P~~post-~~C~~closure ~~C~~care ~~P~~plan ~~shall will~~ be maintained and available for review on request by the Department:; ~~and~~ (3-24-22)()

v. The requirements in Subsection 013.07 ~~shall will~~ apply to owners and operators and their successors and assigns. (3-24-22)()

014. -- 031. (RESERVED)

032. TIER II AND TIER III APPLICATION AND PLAN REVIEW AND APPROVAL.

01. Application Submittal. The owner and operator ~~shall must~~ submit three (3) copies of each required application to the Department. ~~The owner and operator and~~ may submit applications for siting, design, operation, or ~~ground water~~ groundwater monitoring approval sequentially or concurrently. (3-24-22)()

02. Preapplication Conference. The owner ~~or~~ and operator may request that the Department convene a preapplication conference with any interested federal, state and local entities to discuss the approval procedures, application content, time tables for application processing, siting and design requirements. (3-24-22)()

03. Application Review. (3-24-22)

a. On receipt of an application the Department ~~shall will~~, within thirty (30) days, notify the owner and operator in writing whether the submission is complete and whether the application identifies an appropriate Tier level. The notice ~~shall will~~ identify any deficiencies in the application, and the information relied upon in making the determination, and ~~shall will~~ state that an applicant may submit additional information in the form of an amended application, withdraw the application or request a conference to discuss the Department's determination.

(3-24-22)()

b. Upon receipt of the Department's determination that a siting application is complete, the owner and operator shall publish a notice in a newspaper of general circulation as determined in ~~Section 31-819, Chapter 1, Title 60,~~ Idaho Code, in the county and the immediate vicinity of the proposed facility and ~~shall~~ also provide notice to local government. The notice ~~shall~~ must include the name and location of the proposed facility, a general description of the proposed operations, the location where the application may be reviewed, and instructions directing the public to submit comments to the Department within thirty (30) days of the date of publication. The owner and operator ~~shall~~ must provide a copy of the published notice and notice to local government to the Department within five (5) business days of publication. (3-24-22)()

c. The Department ~~shall~~ will approve, deny, or approve with conditions each application. Failure to issue a decision within the stated time shall be deemed approval. Approval conditions ~~shall~~ will relate to protection of human health and the environment as ~~required~~ provided in these rules. (3-24-22)()

i. For a siting application, the Department ~~shall~~ will notify the owner and operator in writing of the Department's decision within thirty (30) days of the date of the close of the public comment period. The Department and the owner and operator may agree, in writing to a longer period of time for the Department's determination. Design, Operating and ~~Ground Water~~ Groundwater Monitoring Applications ~~shall~~ will not be reviewed until the Siting Application is approved. (3-24-22)()

ii. For the Design, Operating and ~~Ground Water~~ Groundwater Monitoring applications, the Department ~~shall~~ will notify the owner and operator in writing of the Department's decision within sixty (60) days from the date the application is determined to be complete. (3-24-22)()

d. If the Department denies an application, the written decision ~~shall~~ will state the basis for the denial, and the information relied upon in making the determination. (3-24-22)()

04. Application Valid for Two Years. Unless otherwise stated in the Department's approval of the facility's application, the Department's approval ~~shall~~ will become invalid if the owner and operator fail to begin construction within two (2) years from the date of approval, or if after construction has begun, work is suspended for more than two (2) years. Owners and operators may apply for an extension provided that the written request is received by the Department no less than one (1) month prior to expiration of the approval. Within fifteen (15) days from Department receipt of extension request, the Department ~~shall~~ will approve the extension request or deny the extension request and state the basis for denial. (3-24-22)()

033. -- 05960. (RESERVED)

060. VIOLATIONS.

~~01. Failure to Comply. Failure by any person to comply with the provisions of these rules shall be deemed a violation of these rules. (3-24-22)~~

~~02. Falsification of Statements and Records. It shall be a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of an approval. (3-24-22)~~

~~03. Penalties. Any person violating any provision of these rules or any approved conditions or order issued thereunder shall be liable for civil penalty in accordance with Title 39, Chapter 1, Idaho Code. (3-24-22)~~

061. OPEN BURNING AND FIRES.

Open burning is prohibited at facilities except as authorized by IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho," and the following: (3-24-22)

01. No Open Burning During an Air Pollution Episode. No open burning may be conducted during an air pollution episode, declared in accordance with IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (3-24-22)

02. Conditions Under Which Open Burning Authorized. Open burning is authorized only if it is infrequent and the materials are agricultural wastes, silviculture wastes, land clearing debris, diseased trees, or debris from emergency cleanup operations. Materials burned may not include garbage, dead animals, asphalt, petroleum products, paints, tires or other rubber products, plastics, paper (other than that necessary to start the fire), cardboard, treated wood, construction debris, metal, pathogenic wastes, hazardous wastes, or any other substance (other than natural vegetation) that when burned releases toxic emissions, dense smoke or strong odors; and (3-24-22)

03. Contact Department and Local Fire Authority Prior to Conducting Open Burning. Open burning may be conducted pursuant to conditions set forth by the Department or local fire authority. The owner and operator of the facility must contact the Department and the local fire authority prior to conducting open burning to report its nature and location. (3-24-22)

062. -- 993. (RESERVED)

994. COMMERCIAL SOLID WASTE SITING LICENSE FEE.

An application for a commercial solid waste siting license required by the Idaho Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code, (ISWFA) ~~shall~~ must be accompanied by a siting license fee in an amount established by these rules. The license fee ~~shall will~~ not exceed seven thousand five hundred dollars (\$7,500) and ~~shall must~~ be submitted with the siting license application. (3-24-22)()

01. Commercial Solid Waste Siting License Fee Criteria. The commercial solid waste siting license fee required by the ~~Idaho Solid Waste Facilities Act ISWFA~~ and these rules ~~shall~~ apply to commercial MSWLFs only and ~~shall will~~ be based on the cost of the Department's review and the characteristics of the proposed commercial solid waste facility, including the projected site size, projected waste volume, and the hydrogeological and atmospheric characteristics surrounding the site. (3-24-22)()

02. Commercial Solid Waste Siting License Fee Scale. The commercial solid waste siting license fee required by the ~~Idaho Solid Waste Facilities Act ISWFA~~ and these rules ~~shall will~~ be determined using the table below. The fee determined using the table below may then be adjusted by the Department if necessary to reflect the cost of the Department's review, ~~taking into account~~ considering the hydrogeological and atmospheric characteristics surrounding the site.

COMMERCIAL SOLID WASTE SITING LICENSE FEE SCALE			
PROJECTED SOLID WASTE VOLUME			
Tons per day (TPD)			
Site Size	Up to 20 TPD	20 to 100 TPD	More than 100 TPD
5 acres or less	\$3,500	\$4,500	\$5,500
5 to 50 acres	\$4,500	\$5,500	\$6,500
more than 50 acres	\$5,500	\$6,500	\$7,500

(3-24-22)()

03. Notification of Adjustment of Fee. Within thirty (30) days of receipt of the application and fee, the Department ~~shall will~~ notify the applicant if the fee has been adjusted and the date by which any additional fee must be paid by the applicant. (3-24-22)()

04. Expansion or Enlargement of a Commercial Solid Waste Facility. The expansion or enlargement of a commercial solid waste facility constitutes a new proposal for which a commercial solid waste siting license is required and for which a siting license fee must be paid. All commercial solid waste facilities not in operation on March 20, 1996, must submit a commercial solid waste siting license application and fee. (3-24-22)()

05. Commercial Solid Waste Siting License Fee Not Refundable. The commercial solid waste siting license fee required by the ~~Idaho Solid Waste Facilities Act ISWFA~~ and ~~by~~ these rules ~~shall will~~ not be refundable

and may not be applied toward any subsequent application should the commercial solid waste siting license application be canceled, withdrawn or denied. (3-24-22)()

995. COMMERCIAL SOLID WASTE SITING LICENSE APPLICATION.

In addition to the contents of a ~~S~~siting ~~L~~icense ~~A~~pplication as required in the ~~Idaho Solid Waste Facilities Act ISWFA~~, these rules require the applicant to include in the application the following items: (3-24-22)()

- 01. Location.** A map indicating the location of the proposed commercial solid waste facility; (3-24-22)
- 02. Copies of Application.** Ten (10) copies of the completed application; and (3-24-22)
- 03. Application Format.** A copy of the application in a format prepared for photocopying. (3-24-22)

996. -- 998~~9~~. (RESERVED)

~~999. CONFIDENTIALITY OF RECORDS.~~

~~Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." (3-24-22)~~

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58.01.08 – IDAHO RULES FOR PUBLIC DRINKING WATER SYSTEMS

DOCKET NO. 58-0108-2502

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate a rule and desires public participation before publishing a proposed rule. This rulemaking action is authorized by Chapter 1, Title 39, Idaho Code.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting. For those who cannot participate by attending the meeting, information for submission of written comments is provided at the end of this notice.

MEETING SCHEDULE: A negotiated rulemaking meeting has been scheduled. Any additional meeting dates will be posted at: <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/drinking-water-docket-no-58-0108-2502/>.

Thursday, August 7, 2025 1:00 p.m. to 3:00 p.m. MT
ATTEND IN PERSON OR VIA MICROSOFT TEAMS
DEQ State Office Conference Room A 1410 N. Hilton Boise, ID 83706
The Teams meeting link is available at: https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/drinking-water-docket-no-58-0108-2502/

The meeting location will be accessible to persons with disabilities, and language translators will be made available upon request. Requests must be made no later than five (5) business days prior to the meeting date. For arrangements contact the undersigned.

DESCRIPTIVE SUMMARY: DEQ initiated this rulemaking for IDAPA 58.01.08, “Idaho Rules for Public Water Systems,” to address public water system stakeholder concerns regarding the 80 psi maximum distribution system pressure limit in IDAPA 58.01.08.552.01.b.v. This rule was revised under Docket No. 58-0108-2301, in an attempt to provide clarity and align the rule with national engineering standards.

The rule change made to IDAPA 58.01.08.552.01.b.v. became effective on July 1, 2024, and has resulted in unintended impacts to existing public water systems related to distribution system design, construction, and operation. The rule change has complicated pressure-related operations within existing distribution system mains where the original system was designed to exceed 80 psi static pressure and could result in increased costs for construction or modification of new and existing public water system distribution mains. DEQ seeks to remedy this problem by reverting the psi requirement to its previous level to reduce the cost and regulatory burden impacting Idaho businesses.

To ensure that stakeholder concerns are addressed as quickly as possible, DEQ intends to conduct negotiated rulemaking in August 2025, publish a proposed rule in the October 1, 2025, Idaho Administrative Bulletin, and present the rule to the Idaho Board of Environmental Quality for adoption as a pending rule in November 2025. Proceeding in this manner will make the rule effective upon the 2026 legislative approval of the pending rule.

PRELIMINARY DRAFT RULE: The preliminary draft rule is available at: <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/drinking-water-docket-no-58-0108-2502/>.

DEQ will facilitate negotiation of this rule in conjunction with a committee made up of stakeholders having an interest in the revision of this rule. Upon conclusion of negotiations, DEQ intends to publish a proposed rule for public comment.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on questions concerning this rulemaking, contact Tyler Fortunati at Tyler.Fortunati@deq.idaho.gov or (208) 373-0140.

SUBMISSION OF WRITTEN COMMENTS: Information regarding public comment opportunities provided throughout the rulemaking process will be available at: <https://www.deq.idaho.gov/public-information/laws-guidance-and-orders/rulemaking/drinking-water-docket-no-58-0108-2502/>.

Dated this 6th day of August, 2025.

Diane Cutler, Rules and Planning Analyst
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
208-373-0165
Diane.Cutler@deq.idaho.gov

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all required information concerning their intent to change or make new the following rules in the latest publication of the state Administrative Bulletin.

*The proposed rule public hearing request deadline is August 20, 2025, unless otherwise posted.
The proposed rule written comment submission deadline is August 27, 2025, unless otherwise posted.
(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 11 – IDAHO STATE POLICE 700 S Stratford Dr, Meridian, ID 83642

11-0601-2501, Rules Governing Civil Asset Forfeiture Reporting. Zero-Based Regulation (ZBR) Chapter Rewrite provides a civil asset forfeiture reporting form for local law enforcement agencies to submit certain information to their local prosecuting attorneys.

11-1001-2501, Rules Governing Idaho Public Safety and Security Information System. ZBR Chapter Rewrite governs operation of the Idaho Public Safety and Security Information System known as “ILETS” and sets forth: who may access; authority and responsibilities of the Board Executive Officer; ILETS program responsibilities, security, and agency network access; and user access fees, responsibilities, and sanctions.

***11-1002-2501, Rules Governing State Criminal History Records and Crime Information.** (*PH) ZBR Chapter Rewrite relates to the operation of criminal history records and crime information, outlining procedures for expungement as well as for contesting the accuracy and completeness of a record, and sets fees for various types of services available.

11-1003-2501, Rules Governing the Sex Offender Registry. ZBR Chapter Rewrite gathers pertinent offender information, establishes notification processes, details expungement of registry information procedure, and substantiates equivalent or similar crimes criteria for the administration of the state’s sex offender central registry for both adult and juvenile offenders.

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE PO Box 83720, Boise, ID 83720-0043

***18-0405-2501, Self-Funded Health Care Plans Rule.** (*PH) ZBR Chapter Rewrite supplements statutory provisions addressing Self-Funded Health Care Plans by providing the director authority to investigate an application; trust fund receivables, reserves, and surplus; bonding; and requirements for contribution rates, contracts, services, and records.

***18-0406-2501, Governmental Self-Funded Employee Health Care Plans Rule.** (*PH) ZBR Chapter Rewrite supplements statutory provisions for Joint Public Agency Self-Funded Health Care Plans by providing the director authority to investigate, application requirements and dates, definition of needed liability, and establishment of reserve bases.

***18-0411-2501, Long-Term Care Insurance Minimum Standards.** (*PH) ZBR Chapter Rewrite promotes the public interest and availability of long-term care insurance coverage with the intent to protect applicants from unfair sales and enrollment practices and facilitate public understanding, comparison, flexibility, and innovation in the development of long-term care insurance.

***18-0412-2501, The Small Employer Health Insurance and Availability Act.** (*PH) ZBR Chapter Rewrite promotes broader spreading of risk in the small employer marketplace and to regulate all health benefit plans sold to small employers.

**18-0413-2501, The Individual Health Insurance Availability Act.* (*PH) ZBR Chapter Rewrite promotes broader spreading of risk in the individual marketplace and to regulate all health benefit plans sold to eligible individuals.

**18-0414-2501, Coordination of Benefits.* (*PH) ZBR Chapter Rewrite allows insurance plans to include a coordination of benefits (COB) provision; establishes a uniform order of benefit determination; provides authority for the transfer of information and funds; reduces duplication of benefits and claim payment delays; requires COB provisions be consistent with rules; and provides efficiency in processing claims.

**18-0415-2501, Rules Governing Short-Term Health Insurance Coverage.* (*PH) ZBR Chapter Rewrite implements Idaho law regarding short-term limited-duration insurance by defining requirements for enhanced short-term plans and nonrenewable short-term coverage, including minimum standards for benefits, rating rules, enrollment, renewability, and required disclosure provisions.

**18-0605-2501, Managing General Agents.* (*PH) ZBR Chapter Rewrite administers provisions in the Managing General Agent Act, which includes governing qualifications and procedures for acquiring the status as a Managing General Agent.

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

2550 Highway 2 West, Sandpoint, ID 83864

20-0308-2501, Easements on State-Owned Lands. ZBR Chapter Rewrite sets forth procedures for issuance of easements on all lands within the jurisdiction of the Board of Land Commissioners except for state-owned navigable waterways but does not apply to hydroelectric project easements.

IDAPA 52 – IDAHO STATE LOTTERY

1199 Shoreline Ln, Ste 100, Boise, ID 83702

52-0103-2501, Rules Governing Operations of the Idaho State Lottery. ZBR Chapter Rewrite provides: definitions and guidance to Lottery players and winners; direction for validating and claiming winning tickets; descriptions of all Lottery game types; guidelines for retailers and vendors selling Lottery products or products to the Lottery; and gaming entities' recordkeeping and participation guidelines in charitable bingo or raffles.

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

1410 N Hilton St, Boise, ID 83706

58-0105-2501, Rules and Standards for Hazardous Waste. To maintain DEQ program primacy, proposed changes update incorporated by reference documents to ensure consistency with the federal regulations implementing the Resource Conservation and Recovery Act as directed by the Idaho Hazardous Waste Management Act. Comment by 9/3/25

58-0106-2501, Solid Waste Management Rules. ZBR Chapter Rewrite requires state authorization prior to disposal of a solid waste by implementing an open dumping prohibition, establishes standards applicable to all solid waste and management facilities in Idaho, with specific exclusions, and provides supplemental requirements to the Idaho Solid Waste Facilities Act for commercial facilities. Comment by 9/3/25

NOTICE OF ADOPTED / AMENDED PROCLAMATION(S)

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13-0000-2500P5, Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho

NOTICES OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

(Please see the Administrative Bulletin for dates and times of meetings and other participant information)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24-0201-2501, Rules of the State Athletic Commission

24-0501-2501, Rules of the Board of Drinking Water and Wastewater Professionals

24-2301-2501, Rules of the Speech, Hearing, and Communication Services Licensure Board

24-3201-2501, Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors

24-3501-2501, Rules of the Outfitters and Guides Licensing Board

24-3930-2502, Rules of Building Safety (Building Code Rules)

24-4101-2501 (New Chapter), Rules of the Long-Term Care Administrators Board

IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION

31-2701-2501 (New Chapter), Rules Governing Pole Attachments

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY
58-0108-2502, Idaho Rules for Public Drinking Water Systems

Please refer to the Idaho Administrative Bulletin [August 6, 2025, Volume 25-8](#), for the notices and text of all rulemakings, proclamations, negotiated rulemaking and public hearing information and schedules, executive orders of the Governor, and agency contact information.

Electronic issues of the Idaho Administrative Bulletin can be viewed at www.adminrules.idaho.gov/

Office of the Administrative Rules Coordinator, Division of Financial Management
P.O. Box 83720, Boise, ID 83720-0032
Phone: 208-334-3900; Email: adminrules@dfm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*Office of the Administrative Rules Coordinator
Division of Financial Management
Office of the Governor*

July 1, 1993 – Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

This index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

(Index of Current and Active Rulemakings)

*Office of the Administrative Rules Coordinator
Division of Financial Management*

April 4, 2025 – August 6, 2025

(PLR 2026) – Final Effective Date Is Pending Legislative Review in 2026

(eff. date)L – Denotes Adoption by Legislative Action

(eff. date)T – Temporary Rule Effective Date

SCR # – denotes the number of a Senate Concurrent Resolution (Legislative Action)

HCR # – denotes the number of a House Concurrent Resolution (Legislative Action)

(This Abridged Index includes all active rulemakings.)

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02.01.05, Rules Governing Certificates of Free Sale

02-0105-2501 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-5

02.01.08, Rules Governing Grizzly Bear and Wolf Depredation

02-0108-2501 Notice of Intent to Promulgate Rules – Negotiated Rulemaking (New Chapter), Bulletin Vol. 25-5

02-0108-2401 OARC Omnibus Notice of Legislative Action – Extension of Temporary Rule, Bulletin Vol. 25-7 (eff. 11-12-24)T

02-0108-2401 Adoption of Temporary Rule, Bulletin Vol. 24-12 (eff. 11-12-24)T

02.02.05, Rules Governing Stone Fruit Grades

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02.02.07, Rules Governing Bulk Permits and Retail Sale of Potatoes

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02.04.26, Rules Governing the Public Exchange of Livestock

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02.06.01, Rules Governing the Production and Distribution of Seed

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02.06.06, Rules Governing the Planting of Beans

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02.06.09, Rules Governing Invasive Species and Noxious Weeds

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02-0609-2405 Adoption of Temporary Rule, Bulletin Vol. 24-11 (eff. 10-7-24)T [superseded]

02-0609-2404 Adoption of Temporary Rule, Bulletin Vol. 24-10 (eff. 9-26-24)T [superseded]

02-0609-2403 Adoption of Temporary Rule, Bulletin Vol. 24-8 (eff. 6-28-24)T [superseded]

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11.06.01, Rules Governing Civil Asset Forfeiture Reporting

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11.10.01, Rules Governing Idaho Public Safety and Security Information System

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11.10.02, Rules Governing State Criminal History Records and Crime Information

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11.10.03, Rules Governing the Sex Offender Registry

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- 16-0210-2501 Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 25-6
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- 16-0310-2501* *Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 25-4*
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