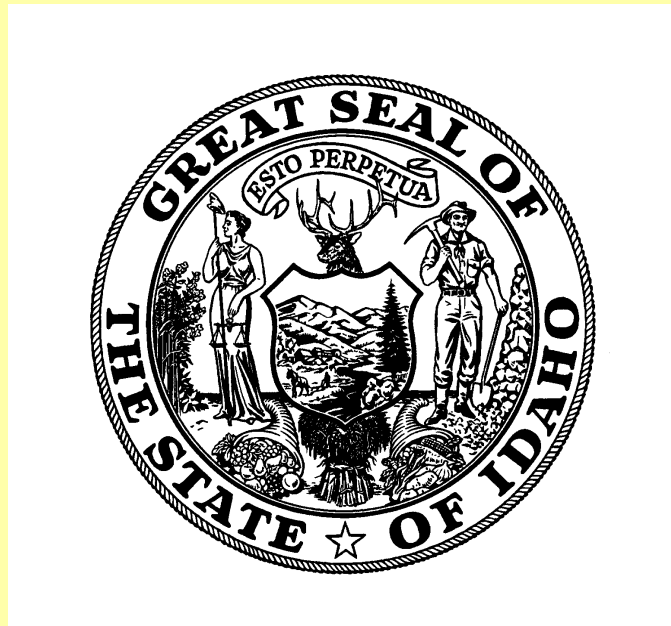


# **PENDING RULES COMMITTEE RULES REVIEW BOOK**

**Submitted for Review Before  
House Judiciary, Rules &  
Administration Committee**

**68th Idaho Legislature  
Second Regular Session – 2026**



*Prepared by:*

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

*January 2026*

**HOUSE JUDICIARY, RULES & ADMINISTRATION COMMITTEE**

**ADMINISTRATIVE RULES REVIEW**

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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 – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

**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 37-2744 \(Chapter 27, Article V\)](#), 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This rulemaking is intended to eliminate the accumulation of costly or outdated regulations and reduce the regulatory burden on Idaho citizens and businesses. 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 August 6, 2025 Idaho Administrative Bulletin, [Vol. 25-8, pages 12-14](#).

**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: 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:

There is no fiscal impact associated with this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Lt. Colonel Russ Wheatley, (208) 884-7004 email: [russ.wheatley@isp.idaho.gov](mailto:russ.wheatley@isp.idaho.gov).

DATED this 28th day of August, 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](mailto:Russ.wheatley@isp.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE 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](mailto: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.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 11-0601-2501

**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 – ADOPTION OF PENDING RULE**

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

**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 19-5201-5204](#), 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:

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.

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 August 6, 2025 Idaho Administrative Bulletin, [Vol. 25-8, pages 15-25](#).

**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: 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: N/A.

**ASSISTANCE WITH TECHNICAL QUESTIONS:** For assistance with technical questions concerning this pending rule, contact Bureau Chief Leila McNeill at (208) 884-7136, email [Leila.mcneill@isp.idaho.gov](mailto:Leila.mcneill@isp.idaho.gov).

DATED this 29th day of September, 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](mailto:Russ.wheatley@isp.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE 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](mailto: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.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 11-1001-2501**

**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:

<b>Percentage of Total ILETS Message Traffic</b>	<b>Annual Usage Fee Effective October 1, 2023</b>
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)~~

~~fc. 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)
- ~~c. 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: 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. -- 0276. (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 – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**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 [67-3001](#), [67-3003](#), [67-3004](#), [67-3007](#), and [67-3010](#), 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 rulemaking is intended to clarify and update language in the rule. 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 August 6, 2025 Idaho Administrative Bulletin, [Vol. 25-8, pages 26-29](#).

**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: 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:

There is no fiscal impact as a result of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Bureau Chief Leila McNeill at (208) 884-7316, email [Leila.mcneill@isp.idaho.gov](mailto:Leila.mcneill@isp.idaho.gov).

DATED this 28th day of August, 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](mailto:Russ.wheatley@isp.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE 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:

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

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](mailto: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.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 11-1002-2501**

**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 – ADOPTION OF PENDING RULE**

[LINK: LSO Rules Analysis Memo](#)

**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 18-8301-18-8331](#), 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:

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.

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 August 6, 2025, Idaho Administrative Bulletin, [Vol. 25-8, pages 30-33](#).

**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: 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: N/A.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Bureau Chief, Leila McNeill, (208) 884-7136, email- [Leila.mcneill@isp.idaho.gov](mailto:Leila.mcneill@isp.idaho.gov).

DATED this 15th day of September, 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](mailto:Russ.wheatley@isp.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE 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](mailto: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.

THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 11-1003-2501

**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 57 – SEXUAL OFFENDER MANAGEMENT BOARD

### 57.01.01 – RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD

DOCKET NO. 57-0101-2501

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo and Incorporation By Reference Synopsis \(IBRS\)](#)

**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 18-8314](#), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule reduces the number of continuing education hours required of SOMB certified senior and associate level psychosexual evaluators and sexual offender treatment providers from forty (40) hours of specialized continuing education to thirty (30) hours of specialized continuing education. This rule also reduces the number of continuing education hours required of SOMB certified provisional level psychosexual evaluators and sexual offender treatment providers from twenty (20) hours of specialized continuing education to fifteen (15) hours of specialized continuing education. This rule change mirrors the continuing education requirement of related licensing boards in recent years. This rule incorporates by reference the Board's updated standards and guidelines related to continuing education for adult and juvenile certified providers based upon the reduction of continuing education hours provided above. The SOMB is also removing SOMB IDAPA Rule 101, Continuing Education for Psychosexual Evaluators and Sexual Offender Treatment Provider, and SOMB IDAPA Rule 231, Continuing Education for POST Conviction Sexual Offender Polygraph Examiners. These Rules are redundant as continuing education requirements are detailed in the SOMB Standards and Guidelines for Adult Sexual Offender Management Practices and the Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders, which are incorporated by reference in Rule 003. The SOMB is also eliminating redundant, non-substantive information from the rules.

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 October 1, 2025 Idaho Administrative Bulletin, [Vol. 25-10, pages 454–459](#).

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to [Section 18-8314](#), Idaho Code.

This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

**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 will not be any impact on the general fund as a result of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Nancy Volle at (208) 605-4782.

DATED this 29th day of October, 2025.

Nancy Volle, Program Manager  
Sexual Offender Management Board  
1299 N Orchard St Ste #110  
Boise, ID 83706

Phone: (208) 605-4782  
Email: [somb@idoc.idaho.gov](mailto:somb@idoc.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE 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 18-8314](#), 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 October 15, 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:

This rule reduces the number of continuing education hours required of SOMB certified senior and associate level psychosexual evaluators and sexual offender treatment providers from forty (40) hours of specialized continuing education to thirty (30) hours of specialized continuing education. This rule also reduces the number of continuing education hours required of SOMB certified provisional level psychosexual evaluators and sexual offender treatment providers from twenty (20) hours of specialized continuing education to fifteen (15) hours of specialized continuing education. This rule change mirrors the continuing education requirement of related licensing boards in recent years. This rule incorporates by reference the Board's updated standards and guidelines related to continuing education for adult and juvenile certified providers based upon the reduction of continuing education hours provided above.

The SOMB is also removing SOMB IDAPA Rule 101, Continuing Education for Psychosexual Evaluators and Sexual Offender Treatment Provider, and SOMB IDAPA Rule 231, Continuing Education for POST Conviction Sexual Offender Polygraph Examiners. These Rules are redundant as continuing education requirements are detailed in the SOMB Standards and Guidelines for Adult Sexual Offender Management Practices and the Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders, which are incorporated by reference in Rule 003.

The SOMB is also eliminating redundant, non-substantive information from the rules.

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

This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

**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 will not be any impact on the General Fund as a result of this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to [Section 67-5220\(1\)](#), Idaho Code, negotiated rulemaking was conducted regarding continuing education hours. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the April 2, 2025, Idaho Administrative Bulletin, [Vol. 25-4, pages 47-48](#).

Negotiated rulemaking was not conducted regarding the removal of Sections 101 and 231, as well as eliminating redundant, non-substantive information from the rules, as these changes are simple, non-substantive and considered maintenance or clean-up to streamline the rule chapter. However, the Board was apprised of the changes.

**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:

The practice standards and certification qualifications established by the agency pursuant to Section 18-8314, Idaho Code, are compiled into documents entitled “Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices;” “Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders;” which are all incorporated by reference into this rulemaking to give them the force and effect of law. These documents, as well as The American Association of Police Polygraphists “Standards and Principles;” and The American Polygraph Association “Standards of Practice” are not being reprinted in this chapter of rules due to their length and format as well as the cost for republication. They can be found on the agency’s website: <http://somb.idaho.gov>.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Nancy Volle at (208) 605-4782.

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 October 22, 2025.

DATED this 29th day of September, 2025.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 57-0101-2501**

**57.01.01 – RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD**

**000. LEGAL AUTHORITY.**

~~This chapter is adopted under the legal authority of Section 18-8314(3), Idaho Code, to implement the provisions of Sections 18-8312 through 18-8316, Idaho Code.~~ (3-23-22)(\_\_\_\_)

**001. SCOPE.**

**01. Scope.** These rules implement Sections 18-8312 through 18-8316, Idaho Code, and provide procedures for the Sexual Offender Management Board (SOMB) to: (3-23-22)(\_\_\_\_)

**a.** Establish certified evaluator, sexual offender treatment provider and post conviction sexual offender polygraph examiner qualifications; (3-23-22)

**b.** Establish standards for psychosexual evaluations and sexual offender treatment programs based on current and evolving best practices; (3-23-22)

**c.** Approve, issue, renew, deny, suspend, revoke, restrict or otherwise monitor a certification; (3-23-22)

**d.** Establish fees for initial and renewal certification; (3-23-22)

- e. Establish procedures for standards and qualification quality assurance; and (3-23-22)
- f. Establish standard protocols for sexual offender management, assessment and classification. (3-23-22)

**002. (RESERVED)**

**003. INCORPORATION BY REFERENCE.**

The following documents are incorporated by reference into these rules: (3-23-22)

**01. The American Association of Police Polygraphists “Standards and Principles,” © AAPP 2018 v.14.110**, is herein incorporated by reference and is available from the American Association of Police Polygraphists, PO Box 657, Waynesville, Ohio 45068, website <https://www.americanassociationofpolicepolygraphists.org/web/public/standards>. (3-23-22)

**02. The American Polygraph Association “Standards of Practice,” effective August 23, 2019, and “Code of Ethics,” effective September 1, 2015**, are herein incorporated by reference and are available from the American Polygraph Association, PO Box 8037, Chattanooga, Tennessee 37414, website <https://www.polygraph.org>. (3-23-22)

**03. “Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices,”** ~~October 2020~~ **February 2025** revision, is herein incorporated by reference and is available from the Board’s office and on the Board website, <https://somb.idaho.gov/>. (3-23-22)( )

**04. “Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders,”** ~~October 2020~~ **February 2025** revision, is herein incorporated by reference and is available from the Board's office and on the Board's website, <https://somb.idaho.gov/> (3-23-22)( )

**004. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Board.** The Sexual Offender Management Board described in Section 18-8312, Idaho Code. (3-23-22)

**02. Central Roster.** A roster of evaluators, treatment providers and polygraph examiners, who meet the qualifications and are certified by the Board to conduct psychosexual evaluations, provide sexual offender treatment or conduct post-conviction sexual offender polygraphs. (3-23-22)

**03. Certificate Holder.** A person who has been approved by the Board and certified as meeting qualifications to conduct or assist in the conduct of psychosexual evaluations, provide sexual offender treatment or conduct post conviction sexual offender polygraphs. (3-23-22)

**04. Certified Evaluator.** Either a psychiatrist licensed by this state pursuant to Title 54, Chapter 18, Idaho Code, or a master’s or doctoral level mental health professional licensed by this state pursuant to Title 54, Chapters 23, 32, or 34, Idaho Code. The evaluator shall have by education, experience, and training, expertise in the assessment and treatment of sexual offenders, meet the qualifications, and be approved by the Board to perform psychosexual evaluations in this state, as described in Section 18-8314, Idaho Code. A person meeting this definition may be certified by the Board as either a senior/approved certified evaluator or an associate/supervised certified evaluator. (3-23-22)

**05. Certified Post Conviction Sex Offender Polygraph Examiner.** A polygraph examiner who has received specialized post conviction sexual offender testing training, and who is certified by the Board to conduct post conviction sexual offender polygraph examinations as ordered or required by the court, Idaho Department of Correction, or Idaho Commission for Pardons and Parole. A person meeting this definition may be certified by the

Board as either a senior/approved post conviction sexual offender polygraph examiner or an associate/supervised post conviction sexual offender polygraph examiner. (3-23-22)

**06. Certified Treatment Provider.** A person who has been certified by the Board as meeting qualifications to provide sexual offender treatment as ordered by the court, Idaho Department of Correction, Idaho Commission for Pardons and Parole, or Idaho Department of Juvenile Corrections. Such person shall be licensed by this state or another state or jurisdiction as a psychiatrist, or a master's or doctoral level mental health professional, and who has by education, experience and training, expertise in the treatment of sexual offenders. A person meeting this definition may be certified by the Board as either a senior/approved sex offender treatment provider or an associate/supervised sex offender treatment provider. (3-23-22)

**07. Client.** An adult or juvenile receiving services from a person certified by the Board pursuant to Section 18-8314, Idaho Code. (3-23-22)

**08. Established Standards.** The "Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices" and the "Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders" as referenced in Section 004 of these rules and established pursuant to Section 18-8314, Idaho Code. (3-23-22)

**09. Post Conviction Sexual Offender Testing (PCSOT).** PCSOT is specialized instruction beyond the basic polygraph training for the purpose of specific polygraph testing of post convicted sexual offenders. ( )

**0910. Provisional/Supervised Psychosexual Evaluator.** A person with limited clinical experience and specialized training, who may be licensed or is working toward licensure as a psychiatrist or master's or doctoral level mental health professional, who is authorized by the Board to assist with the conduct of psychosexual evaluations under the clinical supervision of a senior/approved psychosexual evaluator. A person with a provisional/supervised psychosexual evaluator certificate is not considered to be a certified evaluator as defined in Section 18-8303, Idaho Code or for the purposes of conducting a psychosexual evaluation in accordance with Section 18-8316, Idaho Code. Certification approval is specific to adult or juvenile clients. (3-23-22)

**101. Provisional/Supervised Sex Offender Treatment Provider.** A person with limited clinical experience and specialized training, who may be licensed or is working toward licensure as a psychiatrist or master's or doctoral level mental health professional, who is authorized by the Board to provide sexual offender treatment under the clinical supervision of a senior/approved sex offender treatment provider. Certification approval is specific to adult or juvenile clients. (3-23-22)

**142. Psychosexual Evaluation.** A comprehensive evaluation and assessment specifically addressing a person's sexual development, sexual deviancy, sexual history and risk of re-offense. A psychosexual evaluation for the purpose of these rules is conducted post conviction, as ordered by the court pursuant to Section 18-8316, Idaho Code, or Title 20, Chapter 5, Idaho Code, by a person who has been certified by the Board. (3-23-22)

**123. Quality Assurance.** Processes established by the Board to review psychosexual evaluations and sexual offender treatment procedures to assure minimum standards and certificate holder qualifications are met. All quality assurance reviews will be conducted under the direction of the Board. (3-23-22)

**134. Sexual Offender.** A person adjudicated or convicted of an offense as listed in Section 18-8304, Idaho Code, or a substantially equivalent offense under the laws of another state, territory, commonwealth, or other jurisdiction of the United States including tribal courts and military courts; or who has been adjudicated or convicted of a sexual offense-related crime. (3-23-22)

**145. Sexual Offender Classification Board (SOCB).** A board in effect from 1998 to 2011 that determined whether a sexual offender should be designated as a violent sexual predator; set certified evaluator qualifications and standards; and administered an evaluator certification process. (3-23-22)( )

**156. Supervision.** (3-23-22)

a. For purposes of clinical practice supervision for associate/supervised psychosexual evaluator or

associate/supervised sex offender treatment provider certification, supervision is generally considered as face-to-face direct contact, documented teleconferencing, or interactive video conferencing with a Board-approved supervisor using a ratio of one (1) hour of clinical supervision for every twenty (20) hours of direct service provided; or (3-23-22)

**b.** For purposes of clinical practice supervision for provisional/supervised psychosexual evaluator or provisional/supervised treatment provider certification, supervision is considered as continual face-to-face direct contact with a Board-approved supervisor for the first two hundred fifty (250) hours of direct service provided followed by face-to-face direct contact with a Board-approved supervisor using a ratio of one (1) hour of clinical supervision for every fifteen (15) hours of direct service provided; or (3-23-22)

**c.** For purposes of supervision for associate/supervised post conviction sexual offender polygraph examiners, supervision is generally considered as face-to-face direct contact with a Board-approved supervisor during conduct of the supervisee's first five (5) PCSOT polygraphs followed by review by a Board-approved supervisor of one (1) PCSOT polygraph for every five (5) PCSOT polygraphs conducted by the supervisee. Such review shall include chart and report review. (3-23-22)

**167. Treatment.** For purposes of certification eligibility the provision of face-to-face individual, group, or family therapy with a person who has been investigated by law enforcement or child protective services for commission of a sexual offense, or who has been adjudicated or convicted of a sexual offense or sexual offense-related crime. Treatment must be directly relevant to the client's sexually offending behavior. (3-23-22)

**178. Violent Sexual Predator.** A person who was designated as a violent sexual predator by the ~~Sexual Offender Classification Board~~ **SOCB** where such designation has not been removed by judicial action or otherwise. (3-23-22)(    )

**011. ABBREVIATIONS:**

**01. APA.** The American Polygraph Association. (3-23-22)

**02. PCSOT.** ~~“Post conviction sexual offender testing” is specialized instruction beyond the basic polygraph training for the purpose of specific polygraph testing of post-convicted sexual offenders.~~ (3-23-22)

**03. SOCB.** The Sexual Offender Classification Board. (3-23-22)

**04. SOMB.** The Sexual Offender Management Board. (3-23-22)

**0121. -- 019. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

**~~101. CONTINUING EDUCATION FOR PSYCHOSEXUAL EVALUATORS AND SEXUAL OFFENDER TREATMENT PROVIDERS.~~**

~~To maintain certification as a psychosexual evaluator or sexual offender treatment provider, a certificate holder must receive continuing education in the field of sexual abuse. (3-23-22)~~

~~**01. Senior/Approved and Associate/Supervised Certification Levels.** A psychosexual evaluator or sexual offender treatment provider who is certified at a senior/approved or an associate/supervised level must receive a minimum of forty (40) hours of specialized continuing education in the form of formal conferences, symposia, seminars, workshops or on-line training over the course of the two-year period prior to each renewal period as set forth in the established standards issued by the Board. A certificate holder not meeting the continuing education requirements may formally petition the SOMB for a sixty-day extension to submit proof of meeting continuing education requirements. (3-23-22)~~

~~**02. Provisional/Supervised Certification Level.** A provisional/supervised psychosexual evaluator or~~

~~sexual offender treatment provider must receive a minimum of twenty (20) hours of specialized continuing education in the form of formal conferences, symposia, seminars, workshops or on-line training annually as set forth in the established standards issued by the Board. A certificate holder not meeting the continuing education requirements may formally petition the SOMB for a sixty-day extension to submit proof of meeting continuing education requirements. (3-23-22)~~

~~1021.~~ -- 149. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**201. LEVELS OF POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINER CERTIFICATION.**

The Board issues certificates within two (2) levels reflective of a person's experience in conducting post conviction sexual offender polygraphs. (3-23-22)

**01. Senior/Approved Post Conviction Sexual Offender Polygraph Examiner.** (3-23-22)

**a.** Has graduated from an American Polygraph Association (APA)-accredited polygraph school; (3-23-22)( )

**b.** Has successfully completed a minimum of forty (40) hours of formal post conviction sexual offender polygraph testing beyond the basic polygraph training course requirements from an APA-accredited program or school; and (3-23-22)

**c.** Has successfully completed a minimum of one hundred (100) polygraph examinations. Of this requirement, a minimum of ten (10) sexual history polygraph examinations and a minimum of ten (10) PCSOT maintenance polygraph examinations shall have been conducted within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; (3-23-22)

**02. Associate/Supervised Post Conviction Sexual Offender Polygraph Examiner.** (3-23-22)

**a.** Has graduated from an APA-accredited polygraph school; (3-23-22)

**b.** Has successfully completed a minimum of forty (40) hours of formal post conviction sexual offender polygraph testing beyond the basic polygraph training course requirements from an APA-accredited program or school; and (3-23-22)

**c.** Shall only conduct polygraphs under the supervision of a Board-approved supervisor as defined in Paragraph 010.15.c. of these rules, and under the terms of a formal supervision agreement. (3-23-22)

~~202. --230.~~ (RESERVED)

~~**231. CONTINUING EDUCATION FOR POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINERS.**~~

~~To maintain certification as a post conviction sexual offender polygraph examiner, a certificate holder must receive a minimum of thirty (30) hours of continuing education related to the field of polygraphy in the form of formal conferences, symposia, seminars, or workshops over the course of the two-year period prior to each renewal period as set forth in the established standards issued by the Board. A certificate holder not meeting the continuing education requirements may formally petition the SOMB for a sixty-day extension to submit proof of meeting continuing education requirements. (3-23-22)~~

~~232. -- 299.~~ (RESERVED)

## IDAPA 62 — OFFICE OF ADMINISTRATIVE HEARINGS

### 62.01.01 — IDAHO RULES OF ADMINISTRATIVE PROCEDURE

DOCKET NO. 62-0101-2501

### NOTICE OF RULEMAKING — ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**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 67-5206](#) and [67-5280\(2\)\(c\)](#), Idaho Code.

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

Provides updates/revisions/clean-ups to the Idaho Rules of Administrative Procedure (IDAPA 62.01.01), to include changes necessitated by passage of HB9a and HB36.

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 October 1, 2025 Idaho Administrative Bulletin, [Vol. 25-10, pages 467–480](#).

**FEE SUMMARY:** Pursuant to Section 67-5224(2)(d), Idaho Code, this 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:

None.

**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:

None.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Chief Administrative Law Judge Bryan Nickels at 208-605-4300.

DATED this 24th day of October, 2025.

Bryan Nickels  
Chief Administrative Law Judge  
Office of Administrative Hearings  
350 N. 9th St., Suite 300 (physical and mailing)  
Boise, ID 83702  
208-605-4300  
[general@oah.idaho.gov](mailto:general@oah.idaho.gov)

**THE FOLLOWING NOTICE PUBLISHED WITH THE 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 [67-5206](#) and [67-5280\(2\)\(c\)](#), 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 October 15, 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:

Provides updates/revisions/clean-ups to the Idaho Rules of Administrative Procedure (IDAPA 62.01.01), to include changes necessitated by passage of [HB9a](#) and [HB36](#).

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**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: 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 June 4, 2025 Idaho Administrative Bulletin, [Vol. 25-6, p. 359](#).

**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 Chief Administrative Law Judge Bryan Nickels at 208-605-4300.

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 October 22, 2025.

DATED this 22nd day of August, 2025.

Bryan Nickels  
Chief Administrative Law Judge  
Office of Administrative Hearings  
350 N. 9th St., Suite 300 (physical and mailing)  
Boise, ID 83702  
208-605-4300  
[general@oah.idaho.gov](mailto:general@oah.idaho.gov)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 62-0101-2501

**62.01.01 – IDAHO RULES OF ADMINISTRATIVE PROCEDURE**

**002. DEFINITIONS (RULE 2).**

All terms used in this Chapter shall be interpreted in accordance with the definitions set forth in the Idaho Administrative Procedure Act (“APA”) within Section 67-5201, Idaho Code, and as otherwise defined below:

(7-1-24)

**01. Agency.** In addition to the definition in Section 67-5201(24), Idaho Code, reference to the “agency” in these rules includes the agency director, board or commission, agency secretary, ~~hearing presiding~~ officer appointed by the agency, administrative law judge or contract hearing officer assigned by the Office of Administrative Hearings to serve as a presiding officer in a contested case proceeding, or other such ~~presiding hearing~~ officer, as context requires. In turn, reference to the “agency head” means the agency director, board or commission, as context requires, or such other officer designated by the agency head to review recommended or preliminary orders.

(7-1-24)(    )

**02. Interlocutory Order.** Any order issued by a presiding officer or agency head which is neither a preliminary order, a recommended order, nor a final order.

(7-1-24)

~~**03. Presiding Officer.** One (1) or more members of the agency board or commission, the agency head, or duly appointed hearing officer(s) who are authorized by statute or rule to preside at a contested case hearing. When more than one (1) officer sits at hearing, they may all jointly be presiding officers or may designate one of them to be the presiding officer.~~

(7-1-24)

**043. Service or Serving.** The agency’s or a party’s delivery or distribution of official documents in a legally sufficient manner in a contested case proceeding to the parties to that proceeding and, if applicable, to any other persons required by statute, rule, order, or notice to receive official documents.

(7-1-24)

**(BREAK IN CONTINUITY OF SECTIONS)**

**004. LIBERAL CONSTRUCTION (RULE 4).**

The rules in this chapter will be liberally construed to secure the just, speedy, and inexpensive determination of contested cases proceedings. Unless required by statute or otherwise permitted by rule, the Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to contested case proceedings, but may be used to inform decisions by a presiding officer.

(7-1-24)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**011. USE OF ARTIFICIAL INTELLIGENCE BY PARTIES (RULE 11).**

**01. Definition of Generative Artificial Intelligence.** Generative Artificial Intelligence is a class of computer software and systems, or functionality within systems, that use large language models, algorithms, deep-learning, and machine learning models, and are capable of generating new content, including but not limited to text, images, video, and audio, based on patterns and structures of input data. These also include systems capable of

ingesting input and translating that input into another form, such as text-to-code systems. ( )

**02. Use of Generative Artificial Intelligence.** At any time during a contested case proceeding, a presiding officer is permitted to request disclosure statements from any party regarding the party's use of generative artificial intelligence in the preparation of briefing and other written submissions. The decision whether to request such disclosure statements, and for which submissions, is solely within the discretion of the presiding officer. ( )

**03. Artificial Intelligence-Generated Evidence.** Where the output of a process or system would be subject to Rule 485 if testified to by a human witness, the presiding officer must find that the output satisfies the requirements of Rule 485. This rule does not apply to the output of basic scientific instruments or routinely relied upon commercial software. ( )

**04. Challenges to Artificial Intelligence-Generated Evidence.** If a party challenging the authenticity of artificial intelligence-generated evidence demonstrates to the presiding officer that they reasonably could find that the evidence has been fabricated, in whole or in part, by artificial intelligence, the evidence is admissible only if the proponent demonstrates to the presiding officer that it is, more likely than not, authentic. ( )

**05. Other Uses.** The use of any other artificial intelligence by parties in contested case proceedings, including, but not limited to, the use of artificial intelligence avatars in arguments, shall be permitted only upon advance notice to the presiding officer who, in their sole discretion, may limit or refuse such usage. ( )

**06. Sanctions.** Upon motion by a party or a presiding officer's own initiative, a presiding officer may sanction any party misusing artificial intelligence. The degree of sanctions shall be in the presiding officer's sole discretion, but, absent misuse made knowingly or in bad faith, sanctions for misuse of an accidental or inadvertent nature should be limited to ordering the party to correct its submission(s). Where the misuse by a party is more significant or is repeated, a presiding officer may strike and/or exclude the submission(s) containing the misused artificial intelligence. If a presiding officer finds that the misuse was made knowingly or in bad faith, sanctions may include, but are not limited to, exclusion of the party from the remainder of the proceedings and/or entry of default against the party. ( )

**012. ORDERS GENERATED WITH ARTIFICIAL INTELLIGENCE (RULE 12).**

Agency orders written in whole or in part by utilizing generative artificial intelligence (as defined in Rule 11) shall contain the following statement in the body of the order: "This Order has been generated with the use of generative artificial intelligence." ( )

~~013.~~ – 099. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**152. NEUTRALS (RULE 152).**

When ADR is used for all or a portion of a contested case, or prior to the initiation of a contested case, an agency may provide a neutral, at the agency's cost, to assist the parties in resolving their disputed issues. The neutral may be any individual agreed upon by the parties, but must be someone with no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is disclosed in writing to all parties and all parties agree that the neutral may serve. If the parties are unable to agree upon, or identify, a neutral to provide ADR services, the agency shall make a request to the Office of Administrative Hearings for the selection and provision of a neutral by the Chief Administrative ~~Hearing Officer~~ Law Judge. (7-1-24)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**206. PERSONS NOT PARTIES – INTERESTED PERSONS (RULE 206).**

Unless otherwise provided by statute or rule, Ppersons other than the persons named in Rules 200 through 203 are not parties for the purpose of any statute or rule addressing rights or obligations of parties to a contested case. In

proceedings in which persons other than a petitioner, respondent, or intervenor would be expected to have an interest, persons may request the agency in writing that they be notified when proceedings of that kind are initiated. These persons are called “interested persons.” Interested persons may become intervenors or public witnesses. The agency must serve notice of such proceedings on all interested persons. If not previously identified by the agency, the presiding officer may identify and serve potentially interested persons within their discretion or otherwise direct the agency to identify and serve such persons. (7-1-24)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. APPOINTMENT OF HEARING OFFICERS (RULE 250).**

A hearing officer is a presiding officer, other than the agency head, in a contested case proceeding. Subject to governing statutes and rules, a hearing officer may be appointed by an agency head. (7-1-24)

**01. Office of Administrative Hearings.** Where required by statute or rule, or where an agency head otherwise requests a hearing officer as permitted by statute or rule, an agency head will refer a hearing officer appointment to the Office of Administrative Hearings. Upon receipt and acceptance of the referral, the Chief Administrative ~~Hearing Officer~~ Law Judge or their designee shall appoint a hearing officer of their own selection by issuing a Notice of Appointment to all parties to the contested case proceeding. (7-1-24)( )

**02. Other Hearing Officers.** Hearing officers not appointed through the Office of Administrative Hearings may be employees of the agency or independent contractors, and may (but need not) be attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues before the agency. (7-1-24)

**251. DISQUALIFICATION (RULE 251).**

**01. Petitions – Determination.** Upon any petition to disqualify a presiding officer, the presiding officer may request additional briefing or argument from any party to the contested case proceeding, or may otherwise immediately rule upon the petition on its face without additional briefing or argument. (7-1-24)

**02. Timeline.** A petition to disqualify a presiding officer must be filed within fourteen (14) days of the discovery of the grounds for disqualification. ( )

**023. Voluntary Disqualification.** A presiding officer in a contested case may make a voluntary disqualification without stating any reason therefor. (7-1-24)

**(BREAK IN CONTINUITY OF SECTIONS)**

**253. CONSTITUTIONAL CHALLENGES TO STATUTES AND RULES (RULE 253).**

A presiding officer in a contested case has no authority to declare a statute or rule unconstitutional. If a court with binding authority in the state of Idaho has declared a statute or rule unconstitutional—or if a federal authority has preempted a statute or rule—and that same statute or rule, or a substantively identical one, is challenged in a proceeding before the presiding officer, then the presiding officer must apply the court’s precedent or the federal preemption and decide the matter accordingly. (7-1-24)( )

**254. OTHER CHALLENGES TO RULES (RULE 254).**

An agency head, acting either as a presiding officer or in issuing a final order, may consider and decide whether a rule of that agency is within the agency’s substantive rulemaking authority or whether the rule has been promulgated according to proper procedure. A presiding officer, other than an agency head, does not have the authority to consider and decide such issues except upon express written grant of authority by the agency head. (7-1-24)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**325. MOTIONS — DEFINED — FORM AND CONTENTS — TIME FOR FILING (RULE 325).**

**01. Motions Defined.** All other requests for the presiding officer to take any other action in a contested case are called “motions.” (7-1-24)

**02. Form and Contents.** Motions should: (7-1-24)

**a.** Be in writing, and comply with the same form requirements as pleadings; (7-1-24)

**b.** Not exceed twenty-five (25) pages for dispositive motions, or ten (10) pages for any other motion, except as authorized by the presiding officer; (7-1-24)

**c.** Fully state the facts upon which they are based; (7-1-24)

**d.** Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based; ~~and~~ (7-1-24)(    )

**e.** Include any affidavits, declarations, exhibits, and attachments intended to support the motion, which do not count towards any page limitation, except as otherwise directed by the presiding officer; and (7-1-24)

**f.** State the relief sought. (7-1-24)

**03. Oral Argument.** If the moving party desires oral argument on the motion, it must state so in the motion, including whether it is requested to be in-person or by remote means. All motions seeking dispositive relief shall be set for oral argument; all other motions may be decided on briefing without ~~further~~ oral argument, in the presiding officer’s discretion. (7-1-24)(    )

**04. Time for Filing.** Except as otherwise directed by statute, rule, or order of the presiding officer, motions may be filed at any time during a contested case proceeding. (7-1-24)

**05. Oppositions to Motions.** An opposition to a motion may be filed by any party in the proceedings using the same form and content requirements as the motion being opposed. Unless otherwise directed by the presiding officer, any opposition to a motion must be filed within fourteen (14) days after service of the motion. Reply briefs and further briefing on the motion shall be permitted only upon request of the presiding officer. (7-1-24)

**06. Determination of Motions.** (7-1-24)

**a.** Dispositive Motions. Any ruling on a dispositive motion shall be in writing. The presiding officer may suspend all deadlines, including the evidentiary hearing date, during the consideration of a dispositive motion. (7-1-24)

**b.** Other Motions. Except as otherwise directed by statute, rule, or these rules, a ruling on any other motion may be presented orally by the presiding officer. The presiding officer may direct any party to submit a proposed order regarding an oral ruling. (7-1-24)

**(BREAK IN CONTINUITY OF SECTIONS)**

**327. STAY OF AGENCY ACTION (RULE 327).**

Where not otherwise prohibited by law, a presiding officer may stay an agency order upon motion by any party or by the presiding officer’s own motion, pending resolution of the contested case. Upon completion of the contested case, if the agency action is affirmed, in whole or in part, the presiding officer shall lift the stay of the agency action. (    )

**328. MOTIONS TO SEAL (RULE 328).**

**01. Issuance of Order to Seal.** Upon motion and a showing that evidence in a contested case is confidential, non-public, or otherwise legally protectable, a presiding officer may order that evidence, and any portion of the proceeding addressing that evidence, sealed. Any such records placed under seal are protected from disclosure outside of the contested case proceeding. ( )

**02. Duration of Order.** Upon issuance of an order sealing any documents or exhibits, those records will remain under seal throughout the proceeding and shall be returned to the submitting party at the conclusion of the proceeding, after the time for filing a petition for judicial review has expired. The opposing party shall be entitled to promptly review those documents in preparing for the hearing, and may rely on those documents during the hearing as necessary to ensure a fair hearing process, but shall not maintain its own copy of the sealed document after conclusion of the hearing nor reveal, discuss, or disclose the contents of those sealed documents to any other person outside of the proceeding. ( )

**03. Unsealing by Agency Head.** In reviewing a preliminary order or a recommended order, an agency head may unseal any records sealed by a presiding officer, either upon motion by a party or upon the agency head's own motion. ( )

**04. Provision of Sealed Records Upon Judicial Review.** In the event of judicial review, any sealed records within the agency record will be provided to the relevant judicial body by the agency in conjunction with its transmittal of the agency record as required by Section 67-5275, Idaho Code. Whether a record sealed by a presiding officer in a contested case proceeding remains sealed during a judicial review is a determination for the reviewing court. ( )

327~~9~~ – 349. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**425. DEFAULT (RULE 425).**

A presiding officer may enter a notice of a proposed default order against any party pursuant to the provisions of Section 67-5242A, Idaho Code. A party who has indicated that its case presentation will be limited to a written submission will not be defaulted, and the presiding officer may complete the adjudication without that party's further participation. (7-1-24)( )

**01. Procedure if No Petition to Vacate is Filed.** If no timely petition to vacate is filed by the party subject to a proposed default order, the presiding officer should issue ~~or vacate~~ the default no later than three (3) days after the expiration of the time within which the party could have filed the petition, or otherwise as promptly as possible, except where a shorter period is directed by law. (7-1-24)( )

**02. Procedure Upon Filing of a Petition to Vacate.** Upon the timely filing of a petition to vacate by a party subject to a proposed default order, the presiding officer may request additional briefing from the parties, and may also set a conference for argument regarding the proposed default order. Whether additional briefing and/or argument is accepted, the presiding officer should issue or vacate the default no later than fourteen (14) days after the petition to vacate is filed, except where a shorter period is directed by law. (7-1-24)

**03. Procedure After Default.** Upon the issuance of a default order, the presiding officer ~~shall~~ may set a conference with the non-defaulting party to determine which remaining proceedings, if any, are still needed to complete the adjudication. Such conference should be held as soon as practicable after the issuance of the default order. (7-1-24)( )

**04. Notices to Defaulting Party.** While the defaulting party shall not participate in any remaining proceedings, the presiding officer shall direct that all subsequent filings, including all orders issued in the contested case proceeding, continue to be served on the defaulting party by the most appropriate means, as determined by the presiding officer. (7-1-24)

**426. CONTINUANCE IN LIEU OF DEFAULT (RULE 426).**

A presiding officer may, in the interest of due process and on their own motion, decline to issue a notice of a proposed default order, and instead make a reasonable continuance of the proceedings. If the same party subsequently fails to attend ~~any stage of the continued proceedings~~ the continued prehearing conference or hearing, a notice of a proposed default order must be issued. (7-1-24)(    )

**427. APPEARANCE AT HEARING (RULE 427).**

A party will be deemed to have appeared if present at the time and place of the properly noticed hearing within fifteen (15) minutes of the scheduled hearing time. (    )

**428. INACTIVE CASES (RULE 428).**

Absent a showing of good cause, and at the sole discretion of the presiding officer, a case in which no action has been taken for a period of six (6) months will be dismissed. The parties shall receive fourteen (14) days' notice prior to any dismissal. (    )

~~427~~9. – 449. (RESERVED)

**Rules 450 through 474 – Discovery**

**450. KINDS AND SCOPE OF DISCOVERY LISTED (RULE 450).**

**01. Discovery, Generally.** Parties are encouraged to informally exchange information and documentation which will aid in the just, speedy, and inexpensive disposition of the proceeding. Except where prohibited by statute or rule, discovery may be conducted as agreed between the parties and approved by the presiding officer, or where ordered by the presiding officer on their own initiative. The presiding officer may, in their discretion, limit any discovery on the grounds that it: (7-1-24)(    )

- a. Does not appear relevant; (7-1-24)
- b. Appears unduly repetitious; (7-1-24)
- c. Violates any constitutional, statutory, or regulatory provisions; (7-1-24)
- d. Violates any privilege provided by statute or recognized by the courts of Idaho; (7-1-24)
- e. Appears to be made in bad faith; (7-1-24)
- f. Is not proportional to the needs of the proceeding; and/or (7-1-24)
- g. Otherwise exceeds the permitted scope of discovery as defined in these rules. (7-1-24)

**02. Kinds and Scope - Rules of Civil Procedure.** Unless otherwise provided by statute, rule, order, or notice, when discovery is authorized before the agency, the kinds and scope of discovery is governed by the Idaho Rules of Civil Procedure, subject to any limitations established by the presiding officer. (7-1-24)

**(BREAK IN CONTINUITY OF SECTIONS)**

**453. SUBPOENAS (RULE 453).**

Pursuant to Section 67-5251A, Idaho Code, or as authorized by other statute or rule, ~~the~~ the presiding officer may issue subpoenas, ~~as authorized by statute or rule,~~ upon a party's motion or upon the presiding officer's own initiative. A subpoena may command the ~~person~~ witness to whom it is directed to appear to give testimony at an evidentiary hearing, any other hearing, or a deposition at a specified time and place. A subpoena that commands a person to produce or to permit inspection and copying of documents, electronically stored information or tangible things, or to permit inspection of premises, may be joined with a command to appear as a witness at an evidentiary hearing, any other hearing, or a deposition, or may be issued separately. Any party, or person upon whom the subpoena has been

served, may move the presiding officer to quash a subpoena prior to the deadline for compliance with the subpoena. (7-1-24)( )

**454. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS (RULE 454).**

Notices of deposition, ~~cover letters stating that~~ production requests, written interrogatories, ~~or~~ and requests for admission ~~have been served, cover letters stating answers to production requests, written interrogatories, or requests for admission have been served or are available for inspection, and objections to discovery, and any responses or objections thereto,~~ must be ~~filed and~~ served in the same fashion as other pleadings and motions on all parties in the proceeding. Filing of any such documents shall only be upon order of the presiding officer. (7-1-24)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**456. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY (RULE 456).**

The presiding officer may impose all sanctions recognized by statute or rule, including the rules of civil procedure, for failure to comply with an order compelling discovery ~~or a duly issued subpoena.~~ (7-1-24)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**487. ADVERSE INFERENCE (RULE 487).**

The presiding officer, in their sole discretion, may draw an adverse inference when a party fails to produce requested evidence, including testimony, which is or was reasonably in the party's control, provided that the party is provided advance notice and an opportunity to respond. ( )

~~487~~8. – 499. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**515. VIEW OF PREMISES, PROPERTY, OR THINGS (RULE 515).**

**01. Order for View.** A presiding officer may order that the presiding officer view any property, place, item, or circumstance relevant to the action. Such a view may be conducted at any time in a contested case, and must be conducted personally by the presiding officer after notice to all parties. All parties have the right to be present at any view by the presiding officer. ( )

**02. Admitting of View Evidence.** Photographs or recordings of the view may be admitted as evidence upon motion by any party or by the presiding officer's own motion. ( )

~~515~~6. – 599. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**601. RECORDING OR REPORTING OF HEARINGS (RULE 601).**

**01. In-Person, Remote Video and Telephonic Hearings.** All ~~in-person and telephonic~~ hearings shall be recorded at the agency's expense, either by audiotape, digital audio, and/or court reporter, as selected by the presiding officer. Any party requesting a video recording of an in-person ~~or telephonic~~ hearing may do so at their own expense, subject to the presiding officer's determination that the recording does not cause distraction or disruption, which determination may be made at any time before or during the hearing. (7-1-24)( )

~~02. Remote Video Hearings. All remote video hearings shall be recorded at the agency's expense, by digital audio, digital video, and/or court reporter, as selected by the presiding officer. (7-1-24)~~

**032. Transcripts.** Any party may request an official transcript of any recording of any hearing at their own expense. However, if a party uses an official transcript for any purpose in the contested case proceeding, the full official transcript must be provided to all parties and the presiding officer. If a party is required to provide a copy of an official transcript to all parties and the presiding officer, the presiding officer may, in their discretion, direct all other parties to contribute to the expense of the official transcript. (7-1-24)

**043. Presiding Officers.** In preparing any order, a presiding officer may rely upon any unofficial transcript of a hearing, including, but not limited to, any transcript automatically generated by computer software. If the presiding officer determines that an unofficial transcript of a hearing is incomplete or insufficient, or otherwise determines that an official transcript is required for any other reason, the presiding officer may direct the creation of an official transcript at the agency's expense. If the agency is not a party to the proceeding, the presiding officer may direct the creation of an official transcript at the parties' shared expense. (7-1-24)

602. – 624. (RESERVED)

### Rules 625 through 649 – Orders

#### 625. RECOMMENDED ORDERS (RULE 625).

**01. Definition.** Recommended orders are orders issued by a person other than the agency head that will become a final order of the agency only after review of the agency head (or the agency head's designee) pursuant to Section 67-5244, Idaho Code. (7-1-24)

**02. Content.** Except where otherwise provided by statute or rule, every recommended order must contain the following paragraphs or substantially similar paragraphs: (7-1-24)

**a.** This is a recommended order ~~of~~ by the presiding officer. It will not become final without action of the agency head. If you disagree with this recommended order, you may file a "motion for reconsideration" with the presiding officer, ~~or you may file "exceptions" with the agency head. You are allowed to file both.~~ (7-1-24)(    )

**b.** If you would like to file a motion for reconsideration of this recommended order with the presiding officer, you must do so within fourteen (14) days of the service date of this order. After the presiding officer receives your motion for reconsideration, they have twenty-one (21) days to rule upon it. If they do not issue a ruling within twenty-one (21) days, your motion will be considered denied. (7-1-24)

**c.** If another party has filed a motion for reconsideration of this recommended order, you must file any opposition brief within fourteen (14) days from the service date of the motion for reconsideration. No further briefing by any party will be permitted unless the presiding officer, in their discretion, requests it. (7-1-24)

~~**d.** You may also file any exceptions you may have to this recommended order, with a supporting brief, directly with the agency head within fourteen (14) days of the service date of this order, unless the agency head sets a different deadline. (7-1-24)~~

~~**e.** If another party has filed exceptions to this recommended order with the agency head, you must file any opposition brief within fourteen (14) days from the service date of the exceptions. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it. (7-1-24)~~

~~**f.d.** If you would like to request oral argument regarding any motion for reconsideration ~~or exceptions~~, you must state so in your filings. The decision whether to have oral argument is a decision for at the sole discretion of the presiding officer or the agency head to make, and they may decide to not have oral argument, even if you or any other party has requested it. (7-1-24)(    )~~

~~**e.** Within fourteen (14) days after (a) the service date of this recommended order, (b) the service date of the presiding officer's denial of a motion for reconsideration, or (c) the failure within twenty-one (21) days of the~~

~~presiding officer to grant or deny a motion for reconsideration, any party may request review of this recommended order by the agency head or their designee. If no review is timely requested by any party, the agency head or their designee shall thereafter have fifty-six (56) days from the last date a party could have requested review to issue a final order.~~ ( )

~~f. If review is requested, written briefs in support of a requested review shall be filed with the agency head or their designee at the same time review is requested. Opposing parties shall thereafter have twenty-one (21) days to submit a response brief. The agency head or their designee may schedule oral argument in the matter before issuing a final order. The agency head or their designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head or their designee may also remand the matter for further evidentiary hearings, or conduct their own additional hearings, if further factual development of the record is necessary before issuing a final order.~~ ( )

**03. Content if Reconsideration is Not Permitted or Feasible.** Where statute or rule does not permit a motion for reconsideration, or otherwise renders a motion for reconsideration not feasible (e.g., insufficient time), the recommended order must contain the following ~~paragraphs language~~ or substantially similar ~~paragraphs language~~: (7-1-24)( )

~~a. This is a recommended order of by the presiding officer. It will not become final without action of the agency head. If you disagree with this recommended order, you may file “exceptions” with the agency head. Motions for reconsideration filed with the presiding officer will not be considered.~~ (7-1-24)( )

~~b. You may file any exceptions you may have to this recommended order, with a supporting brief, directly with the agency head within [number of days for which the governing statute or rule would sufficiently allow for submission of exceptions and consideration thereof in advance of a final order, as determined by the presiding officer] days from the service date of this recommended order, unless the agency head sets a different deadline.~~ (7-1-24)

~~e. If another party has filed exceptions to this recommended order with the agency head, you must file any opposition brief within [number of days for which the governing statute or rule would sufficiently allow for submission of responses to exceptions and consideration thereof in advance of a final order, as determined by the presiding officer] days from the service date of the motion for reconsideration. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it.~~ (7-1-24)

~~d. Oral arguments will not be allowed unless requested by the agency head.~~ (7-1-24)

**04. Service of Recommended Orders.** All recommended orders must be served on all parties contemporaneously with the issuance of the recommended order. (7-1-24)

## 626. PRELIMINARY ORDERS (RULE 626).

**01. Definition.** Preliminary orders are orders issued by a person other than the agency head that will become a final order of the agency unless reviewed by the agency head or the agency head's designee pursuant to Section 67-5245, Idaho Code. (7-1-24)

**02. Content.** Except as otherwise provided by statute or rule, every preliminary order must contain the following paragraphs or substantially similar paragraphs: (7-1-24)

~~a. This is a preliminary order of by the presiding officer. It can and will become final without further action of the agency, and without any further notice to you, unless any party requests that either the presiding officer or the agency head review it. If no such request is made within fourteen (14) days of the service of this preliminary order, the order will become final, and you will then have twenty-eight (28) days to file a petition for judicial review with a district court, pursuant to Idaho Code Sections 67-5270 through 67-5279.~~ (7-1-24)( )

~~b. If you disagree with this preliminary order, you may file a “motion for reconsideration” with the presiding officer, or you may file “exceptions” and/or a “petition for review” with the agency head. You are allowed to file all both of these.~~ (7-1-24)( )

**c.** If you would like to file a motion for reconsideration of this preliminary order with the presiding officer, you must do so within fourteen (14) days of the service date of this order. After the presiding officer receives your motion for reconsideration, they have twenty-one (21) days to rule upon it. If they do not issue a ruling within twenty-one (21) days, your motion will be considered denied. (7-1-24)

**d.** If another party has filed a motion for reconsideration of this preliminary order, you must file any opposition brief within fourteen (14) days from the service date of the motion for reconsideration. No further briefing by any party will be permitted unless the presiding officer, in their discretion, requests it. (7-1-24)

~~**e.** You may also file any exceptions you may have to this preliminary order, with a supporting brief, directly with the agency head within fourteen (14) days of the service date of this order, unless the agency head sets a different deadline. (7-1-24)~~

~~**f.** If another party has filed exceptions to this preliminary order with the agency head, you must file any opposition brief within fourteen (14) days from the service date of the exceptions. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it. (7-1-24)~~

~~**g.** You may also file a petition for review regarding this preliminary order, with a supporting brief which sets forth the basis for review, directly with the agency head within fourteen (14) days of the service date of this order, unless the agency head sets a different deadline. The agency head may also notify the parties within fourteen (14) days of the service date of this order, that they, by their own choice, are reviewing this preliminary order, which notice will identify the issues the agency head will review. If a motion for reconsideration has been filed with the presiding officer, your petition for review, or the agency head's notice, does not have to be filed until fourteen (14) days after the motion for reconsideration process with the presiding officer is complete. (7-1-24)~~

~~**h.** If another party has filed a petition for review of this preliminary order with the agency head, you must file any opposition brief within fourteen (14) days from the service date of the petition for review. No further briefing by any party will be permitted unless the agency head, in their discretion, requests it. (7-1-24)~~

~~**i.** If you would like to request oral argument regarding any motion for reconsideration, exceptions, or petition for review, you must state so in your filings. The decision whether to have oral argument is a decision for the presiding officer or the agency head to make, and they may decide to not have oral argument, even if you or any other party has requested it. (7-1-24)(\_\_\_\_)~~

~~**j.** If an agency head reviews a preliminary order, they have the option of either issuing a final order, remanding the matter back to the presiding officer, or holding additional hearings. You will be notified of the agency head's choice if the preliminary order is reviewed. If a petition to review the preliminary order is granted, the agency head (or designee) shall allow all parties an opportunity to file briefs on the issues, and may schedule oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. (7-1-24)(\_\_\_\_)~~

**03. Service of Preliminary Orders.** All preliminary orders must be served on all parties contemporaneously with the issuance of the preliminary order. (7-1-24)

## **627. FINAL ORDERS (RULE 627).**

**01. Definition.** Final orders are preliminary orders that have become final under Rule 626 and Section 67-5245, Idaho Code, or orders issued by the agency head, either as the presiding officer or in regards to a recommended order, pursuant to Section 67-5246, Idaho Code, or as otherwise provided by law. ~~Emergency orders issued under Section 67-5247, Idaho Code, shall be designated as final orders if the agency will not issue further orders or conduct further proceedings in the matter.~~ (7-1-24)(\_\_\_\_)

**02. Content.** Except as otherwise provided by statute or rule, every final order issued by the agency head must contain the following paragraphs or substantially similar paragraphs: (7-1-24)

- a. This is a final order of the agency. (7-1-24)
- b. If you disagree with this final order, you will then have twenty-eight (28) days to file a petition for judicial review with a district court, pursuant to Sections 67-5270 through 67-5279, Idaho Code. (7-1-24)
- c. Prior to requesting judicial review of this final order, you may also file a “motion for reconsideration” with the agency head. If you do wish to file a motion for reconsideration, you must do so within fourteen (14) days of the service date of this order. After the agency head receives your motion for reconsideration, they have twenty-one (21) days to rule upon it. If they do not issue a ruling within twenty-one (21) days, your motion will be considered denied. (7-1-24)
- d. If another party has filed a motion for reconsideration of this final order, you must file any opposition brief within fourteen (14) days from the service date of the motion for reconsideration. No further briefing by any party, and no oral argument, will be permitted unless the agency head, in their discretion, requests it. (7-1-24)
- e. Once an agency head has ruled upon a motion for reconsideration, or if twenty-one (21) days have passed since the motion for reconsideration was filed without a ruling by the agency head, you will have twenty-eight (28) days to file a petition for judicial review with a district court, pursuant to Sections 67-5270 through 67-5279, Idaho Code. (7-1-24)
- 03. Service of Final Orders.** (7-1-24)
- a. Parties. Final orders must be served on all parties contemporaneously with the issuance of the final order. (7-1-24)
- b. Presiding officers. Final orders must be served on the presiding officer contemporaneously with the issuance of the final order. (7-1-24)
- c. Non-Parties. Where not otherwise directed by statute or order, final orders should, upon request, be made available for public inspection within a reasonable time after the issuance of the final order. The conspicuous posting of the final order on an agency website, by clearly identifying the action and providing an accessible electronic copy of the final order, shall be deemed to satisfy this requirement. (7-1-24)

**(BREAK IN CONTINUITY OF SECTIONS)**

**633. VOIDING OF ORDERS (RULE 633).**

- 01. Notice.** Any notice to the Chief Administrative ~~Hearing Officer~~ Law Judge pursuant to Section 67-5283(2)(b), Idaho Code, regarding the alleged failure of an independent contract hearing officer to comply with the requirements of Section 67-5283(2)(a), must be submitted in writing to, and received by, the Chief Administrative ~~Hearing Officer~~ Law Judge within thirty (30) days of the issuance of the independent contract hearing officer’s order, and should state whether the order involves a financial transaction and whether the noticing party requests a stay of the independent contract hearing officer’s order. (7-1-24)(\_\_\_\_)
- 02. Stay.** If the Chief Administrative ~~Hearing Officer~~ Law Judge determines that the independent contract hearing officer’s order involves, or may involve, a financial transaction, the Chief Administrative ~~Officer~~ Law Judge may promptly issue a stay of the independent contract hearing officer’s order for the duration of the investigation, which shall be served on all parties to the contested case. (7-1-24)(\_\_\_\_)
- 03. Investigation.** (7-1-24)
- a. An investigation into an independent contract hearing officer’s alleged failure to comply with the requirements of Section 67-5283(2)(a), Idaho Code, may be conducted by either the Chief Administrative ~~Hearing Officer~~ Law Judge or any person contracted by them to conduct such investigation or a portion thereof. (7-1-24)(\_\_\_\_)

b. The independent contract hearing officer being investigated shall promptly comply with all information and documentation requests made by the Chief Administrative ~~Hearing Officer~~ Law Judge or their designee related to the alleged failure to comply. (7-1-24)(    )

**04. Determination.** Within fourteen (14) days of the notice regarding an alleged failure of an independent contract hearing officer to comply with the requirements of Section 67-5283(2)(a), Idaho Code, the Chief Administrative ~~Hearing Officer~~ Law Judge shall issue a determination in writing of their findings and conclusions, which shall be served on all parties to the contested case. Upon issuance of a determination, any stay will automatically dissolve. (7-1-24)(    )

**05. Voiding of Order.** If the Chief Administrative ~~Hearing Officer~~ Law Judge's written determination finds a failure to comply has occurred, or where an independent contract hearing officer fails to cooperate in an investigation as to whether they failed to comply, the Chief Administrative ~~Hearing Officer~~ Law Judge shall declare the independent contract hearing officer's order void and of no effect. The Chief Administrative ~~Hearing Officer~~ Law Judge's investigation, determination, and voiding of an order pursuant to Section 67-5283(2)(b), Idaho Code, does not constitute a contested case proceeding under the APA, and is not an appealable agency order. (7-1-24)(    )

**06. Reassignment.** If the Chief Administrative ~~Hearing Officer~~ Law Judge's written determination finds a failure to comply has occurred, the Chief Administrative ~~Hearing Officer~~ Law Judge shall promptly reassign the contested case to another administrative law judge or independent contract hearing officer for completion of the contested case. (7-1-24)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**751. HEARING ON EMERGENCY ORDER (RULE 751).**

**01. Time for Hearing.** The hearing upon an emergency order shall be held no later than twenty-eight (28) days after the issuance of the emergency order, except as otherwise provided by statute, rule, or order. (7-1-24)

**02. Appointment of Presiding Officer.** No later than three (3) days after the issuance of the emergency order, the agency shall assign the matter to the Office of Administrative Hearings, or, where otherwise authorized by statute or rule, appoint a presiding officer. (7-1-24)

**03. Notice of Proposed Hearing.** As quickly as feasible, the presiding officer shall issue a notice of proposed hearing date. (7-1-24)

a. Service. The notice of hearing shall be served upon all persons required to comply with the order by both certified mail, return receipt requested, and additionally by e-mail or personal service, where feasible. The agency may be served by e-mail or regular mail. (7-1-24)

b. Content. Except as otherwise provided by statute or rule, the notice of proposed hearing date must contain the following paragraphs or substantially similar paragraphs: (7-1-24)

i. You have a right to have an evidentiary hearing before the agency as quickly as feasible if you wish to contest the Emergency Order dated [insert date of order]. Any hearing will be conducted as a contested case hearing pursuant to Chapter 52, Title 67 of the Idaho Code. (7-1-24)

ii. Pursuant to Section 67-5252, Idaho Code, ~~t~~he presiding officer shall, at the time of hearing: (7-1-24)(    )

(1) Regulate the course of the proceedings to assure that there is a full disclosure of all relevant facts and issues, including such cross-examination as may be necessary, and (7-1-24)

(2) Shall afford all parties the opportunity to respond and present evidence and argument on all issues

involved, except as restricted by a limited grant of intervention or a prehearing order. (7-1-24)

iii. The hearing date identified in this notice is a proposed hearing date. If you would like to request a different date, you may contact the presiding officer identified in this notice within seven (7) days of receiving this notice. You may contact the presiding officer to make your request by phone, e-mail, or by formal filing with the presiding officer. If you do not timely request a different date, the hearing will be held on the date proposed in this notice. (7-1-24)

**04. Request for Alternative Hearing Date.** Within seven (7) days of receipt of the notice of proposed hearing, any party can request an alternative hearing date, for a date sooner or later than proposed. Such request may be made to the presiding officer informally, via e-mail or telephone. The presiding officer shall hold a conference as soon as practicable with all parties to select a new date. (7-1-24)

**05. Regular Proceedings Permitted.** Although the hearing upon an emergency order shall be treated as an appeal of an agency order, any party participating therein shall be entitled to any discovery, presentation of evidence, or other contested case activities as would have been afforded as if the emergency order had not been issued. (7-1-24)

**06. Stay.** Motions requesting stay of the emergency order are permitted; however, no stay may be granted by the presiding officer except upon stipulation by the agency to the stay and any terms governing the stay. (7-1-24)

**752. – 799. (RESERVED)**

**SUBCHAPTER I – AGENCY-SPECIFIC RULES (RULES 800-899)**  
**Rules 800 Through 809 Agency-Specific Contested Case Rules**

**800. OTHER AGENCY-SPECIFIC CONTESTED CASE RULES (RULE 800).**

**01. Mandatory Application.** Some agencies have promulgated their own contested case rules to comply with applicable federal law or specific requirements of Idaho law applicable to the agency or programs it administers. The presiding officer shall adopt and apply any such agency-specific rules, including temporary rules. Agency-specific rules which were promulgated as alternative procedures to the prior Idaho Rules of Administrative Procedure of the Attorney General shall continue to be adopted and applied, except as may conflict with any of these Idaho Rules of Administrative Procedure. Previously-promulgated alternative procedures which conflict with these Idaho Rules of Administrative Procedure, but which are otherwise mandated by federal or state statute, rule, regulation, or binding state or federal judicial decisional authority, shall be adopted and applied notwithstanding these Idaho Rules of Administrative Procedure. (7-1-24)

**02. Optional Application.** Agency-specific contested case procedures may also be reflected in agency policies, procedures, or other non-rule guidance. Upon ~~request of the agency no later than the initial scheduling conference;~~ motion of a party or upon their own motion, the presiding officer may adopt and apply such agency-specific policies, procedures, or other non-rule guidance, provided that such policies, procedures, or other non-rule guidance are publicly-available pursuant to Section 67-5250, Idaho Code; however, any such policies, procedures, or non-rule guidance which are required to comply with applicable federal law shall be adopted and applied. (7-1-24)( )