

# **PENDING RULES COMMITTEE RULES REVIEW BOOK**

**Submitted for Review Before  
Senate State Affairs Committee  
67th Idaho Legislature  
First Regular Session – 2023**



*Prepared by:*

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

*January 2023*

**SENATE STATE AFFAIRS COMMITTEE**

**ADMINISTRATIVE RULES REVIEW**

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**IDAPA 11.04 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.02 – RULES GOVERNING SIMULCASTING**

**DOCKET NO. 11-0402-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 239](#).

**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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email [ardie.noyes@isp.idaho.gov](mailto:ardie.noyes@isp.idaho.gov) or [anisha.jones@isp.idaho.gov](mailto:anisha.jones@isp.idaho.gov).

DATED November 22, 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S Stratford Dr  
Meridian, Idaho 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, 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 19, 2022.

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 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email [Ardie.Noyes@isp.idaho.gov](mailto:Ardie.Noyes@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 October 26, 2022.

DATED this October 5, 2022.

**IDAPA 11.04.02 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.03 – RULES GOVERNING LICENSING AND FEES**

**DOCKET NO. 11-0403-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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**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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

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DATED this October 5, 2022.

**IDAPA 11.04.03 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.04 – RULES GOVERNING DISCIPLINARY HEARINGS AND APPEALS**

**DOCKET NO. 11-0404-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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DATED this October 5, 2022.

**IDAPA 11.04.04 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.05 – RULES GOVERNING ADVANCED DEPOSIT WAGERING**

**DOCKET NO. 11-0405-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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**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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

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

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**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

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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 26, 2022.

DATED this October 5, 2022.

**IDAPA 11.04.05 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.06 – RULES GOVERNING RACING OFFICIALS**

**DOCKET NO. 11-0406-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

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**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email [Ardie.Noyes@isp.idaho.gov](mailto:Ardie.Noyes@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 October 26, 2022.

DATED this October 5, 2022.

**IDAPA 11.04.06 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.07 – RULES GOVERNING RACING ASSOCIATIONS**

**DOCKET NO. 11-0407-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 244](#).

**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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email [ardie.noyes@isp.idaho.gov](mailto:ardie.noyes@isp.idaho.gov) or [anisha.jones@isp.idaho.gov](mailto:anisha.jones@isp.idaho.gov).

DATED November 22, 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S Stratford Dr  
Meridian, Idaho 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, 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 19, 2022.

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 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email [Ardie.Noyes@isp.idaho.gov](mailto:Ardie.Noyes@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 October 26, 2022.

DATED this October 5, 2022.

**IDAPA 11.04.07 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.08 – RULES GOVERNING PARI-MUTUEL WAGERING**

**DOCKET NO. 11-0408-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 245](#).

**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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email [ardie.noyes@isp.idaho.gov](mailto:ardie.noyes@isp.idaho.gov) or [anisha.jones@isp.idaho.gov](mailto:anisha.jones@isp.idaho.gov).

DATED November 22, 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S Stratford Dr  
Meridian, Idaho 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, 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 19, 2022.

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 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email [Ardie.Noyes@isp.idaho.gov](mailto:Ardie.Noyes@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 October 26, 2022.

DATED this October 5, 2022.

**IDAPA 11.04.08 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.09 – RULES GOVERNING CLAIMING RACES**

**DOCKET NO. 11-0409-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 246](#).

**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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email [ardie.noyes@isp.idaho.gov](mailto:ardie.noyes@isp.idaho.gov) or [anisha.jones@isp.idaho.gov](mailto:anisha.jones@isp.idaho.gov).

DATED November 22, 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S Stratford Dr  
Meridian, Idaho 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, 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 19, 2022.

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 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email [Ardie.Noyes@isp.idaho.gov](mailto:Ardie.Noyes@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 October 26, 2022.

DATED this October 5, 2022.

**IDAPA 11.04.09 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.10 – RULES GOVERNING LIVE HORSE RACES**

**DOCKET NO. 11-0410-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 247](#).

**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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email [ardie.noyes@isp.idaho.gov](mailto:ardie.noyes@isp.idaho.gov) or [anisha.jones@isp.idaho.gov](mailto:anisha.jones@isp.idaho.gov).

DATED November 22, 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S Stratford Dr  
Meridian, Idaho 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, 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 19, 2022.

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 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email [Ardie.Noyes@isp.idaho.gov](mailto:Ardie.Noyes@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 October 26, 2022.

DATED this October 5, 2022.

**IDAPA 11.04.10 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.11 – RULES GOVERNING EQUINE VETERINARY PRACTICES, PERMITTED MEDICATIONS,  
BANNED SUBSTANCES AND DRUG TESTING OF HORSES**

**DOCKET NO. 11-0411-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 248](#).

**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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email [ardie.noyes@isp.idaho.gov](mailto:ardie.noyes@isp.idaho.gov) or [anisha.jones@isp.idaho.gov](mailto:anisha.jones@isp.idaho.gov).

DATED November 22, 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S Stratford Dr  
Meridian, Idaho 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, 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 19, 2022.

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 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email [Ardie.Noyes@isp.idaho.gov](mailto:Ardie.Noyes@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 October 26, 2022.

DATED this October 5, 2022.

**IDAPA 11.04.11 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.13 – RULES GOVERNING THE IDAHO STATE RACING COMMISSION**

**DOCKET NO. 11-0413-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 249](#).

**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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email [ardie.noyes@isp.idaho.gov](mailto:ardie.noyes@isp.idaho.gov) or [anisha.jones@isp.idaho.gov](mailto:anisha.jones@isp.idaho.gov).

DATED November 22, 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
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[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, 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 19, 2022.

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 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email [Ardie.Noyes@isp.idaho.gov](mailto:Ardie.Noyes@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 October 26, 2022.

DATED this October 5, 2022.

**IDAPA 11.04.13 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.14 – RULES GOVERNING OWNERS, TRAINERS, AUTHORIZED AGENTS,  
JOCKEYS, APPRENTICE JOCKEYS, AND JOCKEY AGENTS**

**DOCKET NO. 11-0414-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 250](#).

**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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email [ardie.noyes@isp.idaho.gov](mailto:ardie.noyes@isp.idaho.gov) or [anisha.jones@isp.idaho.gov](mailto:anisha.jones@isp.idaho.gov).

DATED November 22, 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S Stratford Dr  
Meridian, Idaho 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, 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 19, 2022.

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 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email [Ardie.Noyes@isp.idaho.gov](mailto:Ardie.Noyes@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 October 26, 2022.

DATED this October 5, 2022.

**IDAPA 11.04.14 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 11 – IDAHO STATE POLICE  
RACING COMMISSION**

**11.04.15 – RULES GOVERNING CONTROLLED SUBSTANCE AND ALCOHOL TESTING  
OF LICENSEES AND APPLICANTS**

**DOCKET NO. 11-0415-2201 (ZBR CHAPTER REPEAL)**

**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514 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.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed (repeal) rule was published in the October 5th, 2022, Idaho Administrative Bulletin, [Volume 22-10, page 251](#).

**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:

This rulemaking is not anticipated to have any fiscal impact on the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or email [ardie.noyes@isp.idaho.gov](mailto:ardie.noyes@isp.idaho.gov) or [anisha.jones@isp.idaho.gov](mailto:anisha.jones@isp.idaho.gov).

DATED November 22, 2022.

Lt. Colonel Bill Gardiner  
Chief of Staff  
Idaho State Police  
700 S Stratford Dr  
Meridian, Idaho 83642  
(208) 884-7004  
[Bill.Gardiner@isp.idaho.gov](mailto:Bill.Gardiner@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 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, 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 19, 2022.

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 2020-01, Zero-Based Regulation](#), the Idaho State Racing Commission is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders and after a comprehensive review of this chapter, the Racing Commission determined that consolidation of all existing chapters of rules into one exclusive chapter would help the regulated community more easily navigate a single source of information for better understanding and accessibility. This proposed rulemaking repeals the current chapter and moves any necessary provisions to companion docket 11-0401-2201 published in this bulletin.

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

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

There will be no fiscal impact to the State of Idaho due to this change.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, pages 93-94](#) under Docket No. 11-ZBRR-2201.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ardie Noyes at phone 208-884-7080, Fax 208-884-7098, or Email [Ardie.Noyes@isp.idaho.gov](mailto:Ardie.Noyes@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 October 26, 2022.

DATED this October 5, 2022.

**IDAPA 11.04.15 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 15.06 – OFFICE OF THE GOVERNOR  
IDAHO MILITARY DIVISION**

**15.06.01 – RULES GOVERNING THE IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION**

**DOCKET NO. 15-0601-2201 (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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective (at the conclusion of the legislative session), unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 31-4801 and 31-4815, 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.

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 July 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 96-100](#).

**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: Not Applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Lt Col Lauren Tschampl at (208) 422-5399.

DATED this 28th day of November, 2022.

Lauren Tschampl  
Staff Judge Advocate  
Idaho Air National Guard  
Idaho Military Division  
4040 W. Guard, Building 600  
Boise, Idaho 83705  
208-422-5399

**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 31-4801 and 31-4815, Idaho Code.

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

**Thursday, July 7, 2022, at 1:00 p.m. MT**

**Lucky Peak Room 109  
945 E. Pine Ave.  
Meridian, Idaho 83642**

The hearing site 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 2020-01, Zero-Based Regulation](#), the Idaho Public Safety Communications Commission (IPSCC) is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter, and use plain language for better understanding.

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

There is no fee associated with this rule.

**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: Not applicable.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, a Notice of Intent to Promulgate Rules - Negotiated Rulemaking was not published in the Idaho Administrative Bulletin. However, rule changes and formulation of the proposed rule were discussed with stakeholders in an open, noticed meeting held by the IPSCC.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the incorporation by reference is necessary: Not applicable.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Lt Col Lauren Tschampl at (208) 422-5399.

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 27 July 2022.

DATED this 20 May 2022.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 15-0601-2201**

**15.06.01 – RULES GOVERNING THE IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION**

**000. LEGAL AUTHORITY.**

Section 31-4816(18), Idaho Code. ( )

**001. SCOPE.**

These rules govern the Commission's mediation and grant processes. ( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Applicant.** A Consolidated Emergency Communication Center submitting a grant application. ( )

**02. Commission.** The Idaho Public Safety Communications Commission as established within the Military Division by Section 31-4815(1), Idaho Code. ( )

**03. Consolidated Emergency Communication Center.** A governmental or multi-governmental organization authorized to collect emergency communication fees in accordance with Title 31, Chapter 48, Idaho Code. ( )

**04. Grant Cycle.** The period between July 1 through the following June 30 for grant application distribution, submission, award notice and disbursement in accordance with dates established in Section 021 of these rules. ( )

**05. Mediation.** The process required by Section 31-4817, Idaho Code, as a condition precedent to local government agencies initiating any legal action. ( )

**06. Taxing District.** A fire protection district created pursuant to Section 31-1402, Idaho Code, an ambulance service created pursuant to Section 31-3901, Idaho Code, or an ambulance service district created pursuant to Section 31-3908, Idaho Code. ( )

**011. (RESERVED)**

**SUBCHAPTER A – RULES GOVERNING MEDIATION**

**012. REQUEST FOR MEDIATION.**

The parties must submit a written request for mediation to the Commission demonstrating that all parties are requesting the mediation. Mediation process is delineated in Commission Policy letter. ( )

**013. SCHEDULED GROUP MEDIATION.**

Within fifteen (15) days from the date of receipt of a request for mediation, the Commission will schedule a date for a mediation at which all parties and a quorum of the Commission can be present, and notify the parties in writing of the date of the group mediation. ( )

**014. REQUIREMENT OF SUBMISSION OF DOCUMENTS AND EXHIBITS.**

The Commission may require the parties to produce documents at or before the date set for the group mediation. Such



documents may include, but are not limited to, individual statements of position from each party. The Commission will notify the parties in writing of any documents that may need to be produced and the date of submission. ( )

**015. INDIVIDUAL POSITION STATEMENTS.**

If the Commission requires individual statements of position from each party, the statements of position should begin with a one (1) page statement of the dispute. ( )

**01. Stipulation of Facts.** The parties are encouraged to stipulate to as many facts as possible and clearly identify what facts are being stipulated. ( )

**02. Supporting Documents.** The parties should present their entitlement position with specific references to appropriate supporting documents, to be included with the statement of position. ( )

**016. GROUP MEDIATION.**

The Commission chairman, or in his absence the vice-chairman or other commissioner designated by the chairman, will preside over the mediation. ( )

**017. SUPPLEMENTAL DOCUMENTATION.**

The Commission may require the parties to provide supplemental documentation and may establish a date by which such documentation is due. ( )

**018. COMMISSION RECOMMENDATION.**

The Commission may make such recommendation orally or in writing. ( )

**019. TERMINATION OF MEDIATION.**

The mediation is terminated as follows: ( )

**01. Settlement.** By the signing of a settlement agreement between the parties covering any or all of the issues between them; and/or ( )

**02. Failure to Agree.** By the written declaration of all parties and the chairman, on behalf of the Commission, that the parties could not come to an agreement in the mediation covering any or all of the issues between them. ( )

**020. -- 099. (RESERVED)**

**SUBCHAPTER B – COMMISSION GRANTS**

**100. GRANT ADMINISTRATION.**

**01. Grant Administration.** The moneys that may be available through the ECGF are from the emergency communications fees placed in the Fund pursuant to Section 31-4819, Idaho Code. Administration of the Grants is detailed in Commission Policy Letter. ( )

**101. GRANT CYCLE.**

**01. Application Availability.** The Commission will make an application and guidance available no later than July 1 of each year. ( )

**02. Application Period.** The Applicant has until July 31 to complete and submit the application to the Commission. ( )

**03. Application Evaluation Period.** Prior to September 15, the Commission and, if applicable, a grant subcommittee, will evaluate the applications received. ( )

**04. Award Notification.** Prior to October 31, the Commission will issue notification to every Applicant regarding the disposition of its grant request. ( )

**05. Grant Disbursement.** Grant disbursement will occur prior to April 30. ( )

**06. Deadline for Return of Funds.** All unused grant funds not expended for costs associated with Applicant's award must be returned by the Applicant no later than May 31. ( )

**102. APPLICATION.**

A completed application must be submitted by the Applicant on or before the conclusion of the application period to be considered during the Grant Cycle. ( )

**01. Application Frequency.** Only one (1) application per Consolidated Emergency Communication Center may be filed in any Grant Cycle, on the form required by the Commission. ( )

**02. Incomplete Application.** An application missing required information may be excluded from consideration for an award. ( )

**03. Applicant's Request for Amendment.** An Applicant may amend its application after the application period has ended by sending both a written request and the proposed application amendment to the IPSCC grant subcommittee. The Commission may grant such amendments at its discretion. ( )

**103. AWARD ELIGIBILITY REQUIREMENTS.**

**01. Equipment.** Only equipment identified as allowable in the application guidance may be purchased with grant funds. ( )

**02. Award Consideration Criteria.** To be considered for an award, an Applicant must meet all of the following requirements: ( )

**a.** Be a Consolidated Emergency Communication Center collecting emergency communications fees in accordance with Title 31, Chapter 48, Idaho Code, delivering or seeking to deliver Consolidated Emergency Communication services; ( )

**b.** Comply and warrant to comply with applicable law, including but not limited to Section 31-4804(5), Idaho Code; ( )

**c.** Agree to follow all applicable bid laws in the acquisition of any equipment paid for with grant funds; and ( )

**d.** Agree to use any grant funds in strict compliance with the grant terms and agree to provide written documentation or proof of expenses to the Commission as required by the grant terms. ( )

**104. CRITERIA FOR EQUIPMENT.**

The following weighted criteria will be used to evaluate applications for equipment, with maximum weight available for each criterion as indicated. Greater value will be assigned to conditions indicating greater need for each criterion: ( )

**01. Applicant Equipment Age.** The age of similar equipment currently in use by the Applicant; value = fifteen (15). The application demonstrating older equipment will be assigned greater value. The application demonstrating replacement of older equipment with NG911/I3 compliant equipment will be assigned a greater value. ( )

**02. Applicant Equipment Availability.** Similar equipment currently in use by the Applicant; value = fifteen (15). The application demonstrating lack of similar equipment will be assigned greater value; the application demonstrating no access to similar equipment will be assigned the maximum value. ( )

**03. Anticipated Use.** An estimate of the frequency of use for the equipment; value = fifteen (15). The application demonstrating a higher ratio of dispatch per capita will be assigned greater value. ( )

**04. Duration of Use.** An estimate of the length of time the equipment would be used, expressed as a mean time; value = fifteen (15). The application demonstrating a greater duration of use will be assigned greater value. ( )

**05. Fiscal Resource Base.** The proportion of operating budget supported by tax revenue; value = ten (10). The application demonstrating less revenue from taxes expressed as a percent of total revenue for the most recent year will be assigned greater value. ( )

**06. City, County and Taxing District Endorsement.** The proportion of Idaho cities, counties and Taxing Districts within which the Applicant's primary service area occurs that endorse the application; value = five (5). The application demonstrating a larger percent of endorsements will be assigned greater value. ( )

**07. Population.** The number of people residing in the Consolidated Emergency Communications Center's service area; value = five (5). The application demonstrating a greater number of people will be assigned greater value. ( )

**08. Square Mileage.** The area served by the Consolidated Emergency Communications Center; value = fifteen (15). The application demonstrating a greater square mileage will be assigned greater value. ( )

**09. Number of Law Enforcement, Fire and Emergency Medical Service Agencies Dispatched.** Value = ten (10). The application demonstrating a higher number of law enforcement, fire and emergency medical service agencies will be assigned greater value. ( )

**10. Narrative.** The need for and lack of availability of funds from other sources as documented by the Applicant; value = twenty (20). The application demonstrating a greater need for and lack of available funds will be assigned greater value. The application seeking to share resources and equipment with other 911 service areas (e.g., host remote) will be assigned a greater value. ( )

**105. FRAUDULENT INFORMATION ON GRANT APPLICATION.**

Providing false information on any application or document submitted under these rules is grounds for declaring the Applicant ineligible. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the Commission. ( )

**106. -- 999. (RESERVED)**

## IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION

### 31.61.01 – RULES FOR THE MEASUREMENT OF STRAY CURRENT OR VOLTAGE (STRAY VOLTAGE RULES)

DOCKET NO. 31-6101-2201 (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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 61-515 and 61-520 and 61-803 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.

The Idaho Public Utilities Commission initiated this rulemaking in compliance with [Executive Order No. 2020-01: Zero-Based Regulation](#), issued by Governor Little on January 16, 2020. Pursuant to Executive Order No. 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at [https://adminrules.idaho.gov/rulemaking\\_templates/index.html](https://adminrules.idaho.gov/rulemaking_templates/index.html). This is the Idaho Public Utilities Commission's rule chapter IDAPA 31.61.01 up for review in 2022.

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 July 6, 2022 Idaho Administrative Bulletin, [Vol. 22-7, pages 214-226](#).

**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 Stephen Goodson at (208) 334-0323. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Public Utilities Commission web site at the following web address: [www.puc.idaho.gov](http://www.puc.idaho.gov).

DATED this 9th day of August, 2022.

Jan Noriyuki, Commission Secretary  
Idaho Public Utilities Commission  
11331 W. Chinden Blvd., Bldg. 8, Ste 201-A  
Boise, ID 83714  
P.O. Box 83720  
(208) 334-0323 Office  
(208) 334-4045 Fax

**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 the Idaho Public Utilities Law Section(s) 61-515 and 61-520 of the Idaho Code and the Stray Current and Voltage Remediation Act, Section 61-803, Idaho Code, and [Executive Order No. 2020-01](#).

**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 July 20, 2022.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The Idaho Public Utilities Commission initiated this rulemaking in compliance with Executive Order No. 2020-01: Zero-Based Regulation, issued by Governor Little on January 16, 2020. Pursuant to Executive Order No. 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at [https://adminrules.idaho.gov/rulemaking\\_templates/index.html](https://adminrules.idaho.gov/rulemaking_templates/index.html). This is the Idaho Public Utilities Commission's rule chapter IDAPA 31.61.01 up for review in 2022.

**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 April 6, 2022 – Administrative Bulletin, [Vol. 22-4 page 43-44](#).

**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:

Sets the ground rules and guidelines for practical safeguarding of utility workers and the public during the installation, operation, and maintenance of electric supply, communication lines and associated equipment. The National Electrical Safety Code ([NESC](#)) and the National Electrical Code ([NEC](#)).

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Stephen Goodson at (208) 334-0323. 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 July 27, 2022.

DATED this May 17, 2022.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 31-6101-2201**

**31.61.01 – RULES FOR THE MEASUREMENT OF STRAY CURRENT OR VOLTAGE  
(STRAY VOLTAGE RULES)**

**GENERAL PROVISIONS**  
**Rules 0 through 20**

**000. LEGAL AUTHORITY (RULE 0).**

Idaho Public Utilities Law, Sections 61-515 and 61-520, Idaho Code, and the Stray Current and Voltage Remediation Act, Section 61-803, Idaho Code. ( )

**001. TITLE (RULE 1).**

**01. Title.** The title of these rules is the IDAPA 31.61.01, “Rules for the Measurement of Stray Current or Voltage” (Stray Voltage Rules). ( )

**002. -- 003. (RESERVED)**

**004. INCORPORATION BY REFERENCE – REFERENCE TO SAFETY CODES (RULE 4).**

**01. Safety Codes.** ( )

**a.** The National Electrical Safety Code (NESC) is applicable to public utilities and is adopted by the Commission Order, “Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission.” ( )

**b.** The National Electrical Code (NEC) is applicable to the installation of wires and facilities used to convey electric current and to apparatus to be operated by such electric current. Adoption of the National Electrical Code is found at Section 54-1001, Idaho Code, and IDAPA 07.01.06, “Rules Governing the Use of National Electrical Code,” Section 011. ( )

**005. -- 009. (RESERVED)**

**010. DEFINITIONS (RULE 10).**

**01. Incorporation by Reference.** These rules incorporate by reference definitions found in Idaho Code 61-802, the NEC and the NESC. ( )

**02. Equipotential Plane (EPP).** See NEC. ( )

**03. Primary System.** The high voltage utility electrical system including the generation, transmission and distribution systems. It also refers to the high voltage side of a distribution transformer. ( )

**04. Secondary System.** Means the low-voltage utility electrical system on the secondary side of a distribution transformer. The dairy’s on-farm system begins on the dairy’s side of the metering points, except for dairies metered on the high voltage side of the transformer(s). In the case of dairies metered on the high voltage side, the on-farm system begins at the transformer’s low-voltage lugs. ( )

**05. Service Provider.** Any person, company or other legal entity providing stray voltage or current testing, consulting, measurements, analysis services, construction, or hardware. ( )

**06. Shunt Resistor.** A physical resistor or combination of resistors used to simulate a dairy cow's body resistance, body-to-metal contact resistance, and hoof-to-earth contact resistance between the cow and contact points during the measurement of cow contact voltage. A shunt resistor shall be five hundred (500) ohm plus or minus two percent (+/- 2%). ( )

**07. Source Resistance.** That portion of resistance in the circuit, other than the resistance of the cow and its contact resistance, when the cow is completing a circuit between contact points. ( )

**08. Stray Current or Voltage.** ( )

**a.** Unless the context otherwise requires, the term "stray voltage" shall mean stray current or stray voltage. ( )

**09. Tests, Measurements, Procedures and Analysis.** Means any or all of the stray voltage testing, measurement, work and work product defined in these rules. ( )

**10. Transient.** Transient or transient deviation means a non-steady state increase or spike in voltage or current. For the purpose of identifying and reporting transients in cow contact voltage (Vcc) or current (Icc), a transient occurs when the recorded maximum Vcc or Icc in a recording interval exceeds two hundred percent (200%) of the steady state Vcc or Icc recorded during the same recording interval. ( )

**11. Utility.** Means a public electric utility as defined in Section 61-332A, Idaho Code. ( )

**011. -- 020. (RESERVED)**

**APPLICABILITY AND ADMISSIBILITY**  
**Rules 21 through 30**

**021. UTILITY (RULE 21).**

A utility measuring or testing for stray voltage or current at the request of a dairy producer, as directed by the Commission or on its own initiative, shall conduct such measurements in accordance with these rules. ( )

**022. DAIRY PRODUCER (RULE 22).**

**01. Serving Notice on the Utility.** A dairy producer providing written notice to a utility pursuant to Section 61-804, Idaho Code, may provide such notice with or without first having conducted tests or measurements of stray voltage. ( )

**02. Cooperation.** When a written notice is filed with the utility, the dairy is obligated to make any contact point(s), service panels, grounding rods or other electrical equipment at the dairy available to the utility for measuring and testing. The utility shall provide reasonable notice and cooperate with the dairy producer to establish an appropriate time to conduct the tests and measurements. The dairy shall cooperate with the utility so that all tests and measurements necessary to identify the existence and magnitude of stray current or voltage, if any, are completed within fourteen (14) days of the utility's receipt of such notice. ( )

**023. SERVICE PROVIDERS (RULE 23).**

All service providers shall follow these rules. ( )

**024. -- 030. (RESERVED)**

**QUALIFICATIONS OF PERSONS PERFORMING AND ANALYZING**  
**RESULTS OF STRAY VOLTAGE TESTS**

**Rules 31 through 50**

**031. PERFORMANCE OF TESTS AND MEASUREMENTS (RULE 31).**

Measuring and testing for stray voltage under these rules for consideration by the Commission shall be performed by a qualified testing professional as such: ( )

**01. Professional Engineer.** A professional engineer, licensed in any state, who has completed no fewer than forty-eight (48) hours of Commission-approved stray voltage training and who has been involved in no fewer than five (5) prior investigations involving the measurement or testing of stray voltage. ( )

**02. Master Electrician.** A master electrician, licensed in any state, who has completed no fewer than forty-eight (48) hours of Commission-approved stray voltage training and who has been involved in no fewer than five (5) prior investigations involving the measurement or testing of stray voltage. ( )

**03. Technician.** A technician who, under the supervision of a person presumed qualified under Subsections 031.01 and 031.02, has completed no fewer than eight (8) hours of Commission-approved stray voltage training and who has been involved in no fewer than five (5) prior investigations involving the measurement or testing of stray voltage. ( )

**032. DATA ANALYSIS (RULE 32).**

Analysis of data under these rules, for consideration by the Commission, shall be performed by a qualified analyst. A professional engineer, licensed in any state, who has completed no fewer than forty-eight (48) hours of stray voltage training and who has been involved in no fewer than five (5) prior investigations involving measurement or testing of stray voltage shall be presumed to be a qualified analyst. ( )

**033. PERSONS OTHERWISE QUALIFIED (RULE 33).**

A person who does not satisfy the qualifications in Sections 031 and 032, may nonetheless be determined by the Commission to be a qualified testing professional or a qualified analyst if, on motion of any party, the Commission finds that person otherwise possesses the knowledge, skill, experience, training, or education that qualifies that person to offer expert testimony before the Commission. ( )

**034. -- 050. (RESERVED)**

**CALIBRATION OF AND EQUIPMENT USED FOR MEASURING  
AND RECORDING VOLTAGE, CURRENT, AND RESISTANCE**

**Rules 51 through 70**

**051. GENERAL REQUIREMENTS FOR STRAY VOLTAGE MEASURING AND RECORDING EQUIPMENT (RULE 51).**

Equipment used for the measurement or testing of stray voltage, current, and resistance shall meet the following criteria: ( )

**01. Resolution and Accuracy.** The accuracy and resolution of any instrument used to measure or record cow contact voltage or current, shall limit the error to five percent (5%) or less at one volt (1 V) or two milliampere (2 mA). ( )

**02. Voltage Measurement.** Instruments used to measure cow contact voltage shall be capable of separating and independently measuring alternating current (AC) and direct current (DC) voltages. These instruments shall have a minimum internal impedance of ten thousand (10,000) ohm and shall be capable of measuring the true-rms voltage. ( )

**03. Current Measurement.** A clamp-on ammeter, a digital multi-meter (DMM) with clamp-on device, or an in-line ammeter shall be used to measure current through a conductor or resistor connected between two (2) points. The meters shall be capable of separating and independently measuring alternating current (AC) and direct current (DC) and shall be capable of measuring the true-rms current. Care must be taken to assure that clamp-on ammeters used have the required resolution and accuracy. ( )



**04. Resistance Measurement.** Resistance shall be measured using either a volt ohmmeter (VOM) or a DMM. Resolution shall be to the level of one (1) ohm or less when measuring a resistance of less than one thousand (1,000) ohm. Accuracy shall be within plus or minus five (+/-5) ohm for a five hundred (500) ohm resistance. ( )

**05. Resistance-to-Earth Measurement.** Grounding electrode resistance-to-earth measurements shall be made with a three- (3) point fall-of-potential instrument or a clamp-on resistance-to-earth tester. ( )

**052. CALIBRATION REQUIREMENTS (RULE 52).**

**01. Measuring Equipment Calibration.** All measuring equipment shall be calibrated according to the manufacturer's recommended calibration schedule, but no less than annually, to meet the manufacturer's specifications for the accuracy and resolution of the equipment. Measuring equipment shall not be used after its next "calibration due" date for measurements or tests conducted during a stray voltage investigation. Calibration shall be performed by either: ( )

**a.** The manufacturer of the equipment, who shall certify that the equipment meets the manufacturer's specifications for accuracy and resolution; or ( )

**b.** A laboratory currently certified as meeting all applicable Institute of Electrical and Electronic Engineers (IEEE) and International Organization for Standards (ISO) standards. ( )

**02. Calibration Certificates.** The service provider performing the tests and measurements shall maintain certificates from the manufacturer or the calibration laboratory demonstrating compliance with calibration requirements. ( )

**03. Field Check.** Before voltage or current measurement or testing is performed, the instrument shall be field-checked by comparing measurements to those of other instruments or against a known source. ( )

**053. REQUIREMENTS FOR MONITORING AND RECORDING DEVICES (RULE 53).**

Digital recording devices shall be used for the purpose of recording current and voltage for extended periods, such as the forty-eight (48) hour test. The recording devices shall have the same level of resolution and accuracy as the meters being used for the measurements. Monitoring systems, which combine measuring and recording functions in a single instrument, shall have the same level of resolution and accuracy as specified in Section 051. Recording devices and monitoring systems shall be capable of recording transient deviations of one-tenth (0.1) second or less in duration from the steady state. Digital recording devices, which have deviation settings, shall permit the deviation setting to be set "low" enough to meet the resolution and accuracy requirements in Subsection 051.01 of these rules. All recording devices shall be able to log the time and date of all data recorded and shall have their internal clocks synchronized. ( )

**054. REQUIREMENTS FOR LOAD BOXES (RULE 54).**

**01. Volts.** A load box shall be a primarily non-inductive nominal two hundred forty (240) volt, resistance heating type load with a minimum nominal full load of eighteen (18) kilowatts (kW). ( )

**02. Split-Load.** A load box shall be capable of operating at two (2) or more load settings, including approximately fifty percent (50%) and one hundred percent (100%) of the load box's rated total load. ( )

**055. -- 070. (RESERVED)**

**TESTING AND MEASUREMENT PROCEDURES**  
**Rules 71 through 80**

**071. STRAY CURRENT OR VOLTAGE TESTS (RULE 71).**

Subject to Subsection 071.02, there are six (6) tests used to detect and measure stray current or voltage. ( )

**01. Scheduling of Stray Voltage Tests.** Efforts shall be made to perform the tests under conditions

substantially similar to those conditions existing at the time(s) the dairy producer believes stray voltage to be a problem. ( )

- a. Test 1 - Cow Contact Test; ( )
- b. Test 2 - Forty-Eight (48) Hour Test; ( )
- c. Test 3 - Primary Profile Test; ( )
- d. Test 4 - Secondary Neutral Voltage Drop Test; ( )
- e. Test 5 - Load Box Test; and ( )
- f. Test 6 - Signature Test. ( )

**02. Testing Sequence.** Test 1 shall be performed first. Tests 1 and 2 are used to determine the presence and level of stray voltage and shall be performed in all investigations, subject to the provisions of Subsection 071.03. Tests 3, 4, 5, and 6 may be performed in any order and may be performed without first determining that these tests are required under Paragraph 071.02.b. Tests 3, 4, 5, and 6 may be performed prior to starting the recording for Test 2 or while Test 2 is in progress. Test 2 may be interrupted as necessary to conduct Tests 4, 5, and 6, or for review and analysis of the data recorded up to that point. ( )

a. If the results from Tests 1 and 2 indicate that stray voltage does not exceed the preventive action level (PAL), the utility has no further testing or remediation obligations under these rules during this test cycle. ( )

b. If the PAL is exceeded, the utility shall perform the remaining four (4) tests except as provided in Subsection 071.03. The utility shall also perform analysis to determine whether the portion of the stray current or voltage attributable to an off-farm source exceeds fifty percent (50%) of the PAL. ( )

c. If the PAL is exceeded, and the portion of the stray current or voltage attributable to an off-farm source does not exceed fifty percent (50%) of the PAL, the utility has no further testing or remediation obligations. ( )

d. If the PAL is exceeded, and the portion of the stray current or voltage attributable to an off-farm source exceeds fifty percent (50%) of the PAL, the utility shall conduct remediation pursuant to Section 091. Under this condition, the forty-eight (48) hour recording of Test 2 may be reduced to no fewer than twenty-four (24) hours. ( )

e. For all testing conducted under these rules, the utility shall have a qualified analyst prepare a report pursuant to Section 082. ( )

**03. Suspended or Limited Testing.** The utility may suspend a stray voltage investigation or conduct a limited evaluation, as agreed between the utility and the dairy producer. ( )

**072. PREPARATION FOR TESTING (RULE 72).**  
The person performing the tests shall perform the following: ( )

**01. Remote Reference Grounding Rod.** ( )

a. Remote reference grounding rod(s) shall be installed and penetrate moist soil to a depth of thirty (30) inches. When practicable, remote reference rods shall be installed at least twenty-five (25) feet away from the nearest underground conductive electrical equipment of any type or at a distance equal to three (3) to four (4) times the buried depth of any metallic structure connected to the service entrance neutral. The reference ground rod shall be located not closer than twenty-five (25) feet from the centerline of a primary electrical conductor right-of-way. A reference rod shall be located not closer than one hundred (100) feet from the edge of a transmission line right-of-way. ( )

**b.** All remote reference grounding rods shall be checked for “remoteness” prior to their use for tests or measurements and if found to be insufficiently “remote,” a new location for that reference ground rod shall be found and retested for remoteness. Remoteness of the reference ground shall be determined by measuring the voltage from the transformer grounding electrode conductor to the remote reference ground. The resistance-to-earth of the transformer grounding electrode shall be measured. The grounding electrode current shall be measured. Remoteness is considered adequate if the measured voltage (transformer grounding conductor to reference ground,  $V_p$ ) is within twenty percent (20%) of the voltage calculated by multiplying the grounding electrode current by the grounding electrode resistance-to-earth. ( )

**c.** If the transformer grounding electrode is within twenty-five (25) feet of other primary or secondary grounding electrodes, this remoteness test shall be conducted at the first primary system grounding electrode upstream of the transformer that is greater than twenty-five (25) feet from other primary or secondary system grounding electrodes. ( )

**02. Inspecting the Transformer(s).** Prior to testing, the utility transformer shall be inspected, grounding electrode resistance measured, and any repairs necessary for safety be made and recorded. In the case of a customer-owned transformer, qualified personnel shall inspect the installation, measure grounding electrode resistance, and make and record any repairs necessary for safety. Measurements that require contact with utility or customer-owned primary wires or equipment shall be made by the utility or other qualified personnel. ( )

**03. In-Line Ammeters.** If in-line or series ammeters are used, they shall be installed under safe conditions in accordance with the NESC and the NEC with the entire dairy system or the specific circuit to be tested de-energized. ( )

**04. Pre-Test Documentation.** ( )

**a.** All pre-test calibration requirements from Section 052 shall be completed and documented. ( )

**b.** A sketch or drawing of the dairy shall be prepared indicating: ( )

**i.** The location of the buildings; ( )

**ii.** Secondary electrical service panels and secondary feeder systems serving cow contact areas; ( )

**iii.** Transformer(s) and central distribution point; ( )

**iv.** Existing grounding electrodes (if known); ( )

**v.** The location of all cow contact points to be tested; ( )

**vi.** All remote reference grounding rods; and ( )

**vii.** All primary and secondary neutral test points used in conjunction with the remote reference grounding rod(s). ( )

**c.** A listing of planned test points shall be prepared using the applicable form prior to beginning each test. Each test shall be listed separately and specific reference numbers shall be given to each planned test point. ( )

**05. Safety.** ( )

**a.** If the service provider reasonably concludes that a dairy’s noncompliance with the NEC poses a significant and immediate safety hazard which prevents completion of any test or measurement required by these rules, then the service provider’s obligations to proceed under these rules shall be suspended until the hazard is

eliminated. ( )

**b.** At the discretion of the service provider conducting the test, livestock shall be removed from any area where electrical equipment or wiring is examined or electrical measurements are taken. Testing may be suspended if the presence of cows or other animals creates a potential hazard to testing personnel. The locations of electric fences and other electrified cow control devices shall be noted and de-energized where practical. ( )

**073. TEST 1 -- COW CONTACT TEST (RULE 73).**

**01. Purpose.** This test is to determine the location(s), if any, where stray current or voltage exceeds the PAL and to identify the location(s) at which the cow contact voltage will be recorded in the forty-eight (48) hour test. ( )

**02. Selection of Cow Contact Points.** The selection of cow contact points to be tested shall include a sufficient number of locations reasonably likely to demonstrate the presence of stray voltage or current, if any. ( )

**03. Conducting the Test.** The voltage across the shunt resistor or current through the shunt resistor shall be measured between cow contact points as shown in Figure 1. The source resistance shall be calculated during analysis for all cow contact points. ( )

**a.** When using a voltmeter to measure voltage between contact points where one (1) of those points is the floor surface, the equipment shall be arranged as shown in Figures 1 and 2, using a metal plate, which shall make a high quality conductive contact with the ground or floor. If the service provider is unsure of having a high quality conductive contact with the floor or ground, then the procedure described in Paragraph 073.03.c. shall be followed. If necessary, corrosion shall be removed from the point(s) where test lead(s) make contact with metal equipment. ( )

**b.** When using an in-line milliammeter or a clamp-around milliammeter to measure current between contact points and one (1) of those points is the floor surface or earth, the equipment shall be arranged as shown in Figure 3, using a metal plate which shall make high quality conductive contact with the ground or floor. If the service provider is unsure of having a high quality conductive contact with the floor or ground, then the procedures described in Paragraph 073.03.c. shall be followed. If necessary, corrosion shall be removed from the point(s) where test lead(s) make contact with metal equipment. ( )

**c.** A metal plate used to make an electrical contact with the earth or floor shall be of regular shape (square, rectangular or round), and shall have a surface area equal to or greater than sixteen (16) square inches (4 inches x 4 inches or equivalent). Place a weight not less than twenty (20) pounds on the metal plate. This weight shall be applied evenly across the metal plate and not to the adjacent concrete or earth. Place the metal plate a minimum distance of twelve (12) inches from any metal equipment making contact with the floor or earth. ( )

**i.** Where the metal plate is to be placed on a concrete floor, the surface shall be flat. Clean the floor surface with a stiff brush to remove debris that may add excess resistance. Use water to clean the floor surface at the point where the metal plate will be placed. Place a paper towel or similar material soaked in saltwater between the metal plate and the concrete floor. ( )

**ii.** Where the metal plate is to be placed on the ground or earth surface, the surface shall be flat. Remove any debris and add water to the area, if necessary, to dampen the soil. The surface of the metal plate that will make contact with the earth shall be clean and free of corrosion before use. Remove any corrosion, if necessary. ( )

**04. Recording the Data.** The person conducting this test shall record the location of, and measured values at, each test point. At each cow contact location, an open circuit voltage reading ( $V_{oc}$ ) and a voltage with five hundred (500) ohm nominal shunt resistor placed across the input to the meter ( $V_{shunt}$ ) shall be taken. These readings shall be taken with ten (10) seconds or less time between each reading. Alternatively, a current measurement ( $I_{shunt}$ ) may be taken in place of the voltage reading ( $V_{shunt}$ ). Data for these test points shall be recorded on the form in Appendix 1. ( )

**05. Source Resistance Calculation.** The source resistance ( $R_{\text{source}}$ ) shall be calculated for each cow contact location measured and the value recorded in Appendix 1. The following formulas shall be used to calculate source resistance.

$$R_{\text{source}} = \frac{V_{\text{oc}} - V_{\text{shunt}}}{V_{\text{shunt}}} \times R_{\text{shunt}}$$

$$R_{\text{source}} = \frac{V_{\text{oc}}}{I_{\text{shunt}}} - R_{\text{shunt}} \quad ( \quad )$$

**074. TEST 2 -- FORTY-EIGHT HOUR TEST (RULE 74).**

**01. Purpose.** This test is to determine whether stray current or voltage exceeds the PAL at selected location(s) over a forty-eight (48) hour period, subject to Subsection 074.06 and Paragraph 071.02.d. The test also demonstrates whether the primary or secondary sides of the system have a specific impact on the recorded current or voltage at specific times of day. ( )

**02. Setup.** A digitizing data recorder with averaging capability and capable of detecting and recording transient deviations of one-tenth (0.1) second or less in duration shall be used to record the following: ( )

a. Voltage from primary neutral at the transformer to remote reference ground,  $V_p$ . ( )

b. Voltage from secondary neutral in the service panel serving the area of the cow contact to remote reference ground,  $V_s$ . ( )

c. Voltage drops ( $V_p$ s) from primary neutral at the location of connection for  $V_p$  to secondary neutral at the location of the connection for  $V_s$ . ( )

d. Cow contact current through ( $I_{cc}$ ) or voltage across a five hundred (500) ohm resistor at the high voltage point(s) found in Test 1,  $V_{cc}$ . ( )

**03. Measurement Interval.** The results of the forty-eight (48) hour test may be highly indicative of the presence of stray voltage. A recording interval as high as ten (10) seconds may be used provided that transient deviations of voltage or current of one-tenth (0.1) second or less in duration of voltage or current are recorded to the maximum ability of the instrument. ( )

**04. Measurement at the Cow Contact Point(s).** Measurements to the earth or concrete surface shall be to a metal plate as described in Paragraph 073.03.c. When making measurements to metal objects, corrosion shall be removed to obtain a low resistance connection. ( )

**05. Recording the Data.** Data gathered by the recording equipment during the forty-eight (48) hour test including transients shall be downloaded and retained with the records of the investigation. In addition, the steady-state data shall be summarized in the investigation report. The recorded data shall be made available to the dairy producer or utility upon request. The person conducting this test shall record the location of, and measured values at, each test point. The identification of the cow contact point shall be recorded on the form in Appendix 2. Transient deviations shall be recorded on the supplemental data form, page 3 of 3 in Appendix 2. A plot of the voltage versus time may be substituted for the recording of measured values in Appendix 2. ( )

**06. Reduced Recording Period.** If a qualified analyst concludes that remediation by the utility is required under Paragraph 071.02.d. prior to the completion of a forty-eight (48) hour recording period, the recording period may be reduced to no fewer than twenty-four (24) hours. ( )

**075. TEST 3 -- PRIMARY PROFILE TEST (RULE 75).**

**01. Purpose.** This test is to measure or calculate neutral-to-earth voltage (NEV) for a multi-grounded distribution system. ( )

**02. Conducting the Test.** The primary profile test requires concurrent measurement of the ground electrode resistance and current at all primary system ground points within three quarters (3/4) of a mile on either side of all primary service points serving the dairy, or to the end of the line if less than three quarters (3/4) of a mile. Alternatively, the voltage between a remote grounding rod and the primary ground point being tested may be measured. ( )

**a.** This test shall be conducted starting at one (1) end of the distribution system and working toward the other end along the main primary distribution system. Figure 4 below illustrates the procedure. ( )

**i.** Where the dairy is served by a dedicated tap of less than one-half (1/2) mile in length from a distribution line, the neutral-to-earth voltage shall be measured at each primary ground along the tap and along the distribution line to a distance of three-quarters (3/4) of a mile in each direction from the point of the tap; or ( )

**ii.** Where a dairy is served by a dedicated tap that extends more than one-half (1/2) mile from the distribution line, the neutral-to-earth voltage shall be measured at each primary grounding electrode along the tap and along the distribution line to a distance of one-half (1/2) mile in each direction from the point of the tap. ( )

**03. Recording the Data.** The person conducting this test shall record the location of, and measured values at, each test point. Data and calculation results for these test points shall be recorded on the form in Appendix 3. ( )

**076. TEST 4 -- SECONDARY NEUTRAL VOLTAGE DROP TEST (RULE 76).**

**01. Purpose.** This test is used to determine the impact of each secondary service on the neutral-to-earth (NEV) and cow contact voltages on the dairy under controlled conditions. ( )

**02. Conducting the Test.** This test shall be performed for all service entrances. A proxy load of known characteristics (such as a resistive load like a one hundred twenty (120) volt, fifteen hundred (1,500) watt hairdryer) is required for this test. The proxy load must create a known and stable current and subsequent voltage drop for each neutral serving a main panel, sub-panel or end-of-service area. All service entrances other than that being tested shall be turned "off" to perform this test. A diagram showing the connections and measurement points for this test is shown in Figure 5. ( )

**03. Data Collection.** The following data shall be collected for each secondary neutral tested: ( )

**a.** Gauge and type of neutral wire. ( )

**b.** Length of neutral wire. ( )

**c.** Neutral current,  $I_{sn}$ . ( )

**d.** Voltage drop ( $V_{DropM}$ ) between both ends of the secondary neutral being tested. ( )

**e.** Cow contact voltage ( $V_{cc}$ ) or current ( $I_{cc}$ ) at the same points used in the forty-eight (48) hour test. ( )

**f.** Primary neutral at the transformer to reference ground voltage,  $V_p$ . ( )

**g.** Secondary neutral to reference ground voltage,  $V_s$ . ( )

**04. Measurements.** The three (3) voltages ( $V_{cc}$ ,  $V_p$  and  $V_s$ ) shall be measured with the proxy load "off" and "on." Calculated expected voltage drops ( $V_{DropC}$ ) (see Appendix 4) shall be compared with measured voltage drops ( $V_{DropM}$ ). If the measured and calculated voltage drops differ significantly, further investigation shall be undertaken to determine the source of additional voltage drop within the circuit. Neutral current shall be

measured and recorded with the proxy load on (Isn). ( )

**05. Recording the Data.** Any person conducting this test shall record the location of, and measured values at, each test point. Data and calculation results for these test points shall be recorded on the form in Appendix 4. ( )

**077. TEST 5 -- THE LOAD BOX TEST (RULE 77).**

**01. Purpose.** To determine the extent to which the primary system contributes to stray current or voltage at cow contact points. For dairies with three (3) phase balanced primary service, the service provider shall perform Steps One and Two in Paragraph 077.02.b. below. ( )

**02. Conducting the Load Box Test.** This test shall be performed at the same time of day as the time(s) of highest cow contact voltage found in the forty-eight (48) hour test. During this test, voltage and current shall be measured and recorded at the points indicated in Figure 6. ( )

**a.** The load box test requires the recording of eight (8) data points during each of the five (5) test steps. The eight (8) data points that shall be measured or calculated and recorded for each step are: ( )

i. Primary line to neutral voltage,  $V_{pri}$ . ( )

ii. Load Box Current,  $I_{lb}$ . ( )

iii. Voltage at load box connection to secondary system,  $V_{lb}$ . ( )

iv. Calculate transformer current  $I_p$  using  $I_p = \frac{I_{lb} \times V_{lb}}{V_{pri}}$ . ( )

v. Voltage from primary neutral at the transformer to remote reference ground rod,  $V_p$ . ( )

vi. Voltage from secondary neutral in the service panel serving the area of the cow contact to remote reference ground rod,  $V_s$ . ( )

vii. Voltage from primary neutral at the transformer to secondary neutral at the service panel serving the area of cow contact,  $V_{ps}$ . ( )

viii. Cow contact voltage ( $V_{cc}$ ) or current ( $I_{cc}$ ) at the same point(s) used in the forty-eight (48) hour test. ( )

**b.** Except for dairies with three (3) phase balanced primary service, the following five (5) test steps shall each be conducted for at least two (2) minutes: ( )

i. Step One: The load box shall be de-energized, the dairy shall remain “on.” ( )

ii. Step Two: The load box shall be de-energized, the dairy shut “off.” ( )

iii. Step Three: The load box shall be set to half load, the dairy shut “off.” ( )

iv. Step Four: The load box shall be set to full load, the dairy shut “off.” ( )

v. Step Five: The load box shall be set to full load, the dairy shall be turned “on.” ( )

**03. Calculating the K Factor.** The K factor is a calculated ratio ( $V_{cc}/V_s$ ). The K factor should be less than one (1) because  $V_{cc}$  (cow contact voltage) should be less than  $V_s$  (the dairy ground to reference ground voltage). If the K factor is greater than one (1), then there is contribution to  $V_{cc}$  from sources other than  $V_s$ . ( )

**04. Recording the Data.** The person conducting this test shall record the location of, and measured

values at, each test point. Data and calculation results for these test points shall be recorded on the form in Appendix 5. ( )

**078. TEST 6 -- SIGNATURE TEST (RULE 78).**

**01. Purpose.** This test is used to determine the contribution to stray current or voltage of individual pieces of equipment operating on the dairy. The test is best performed when there is minimal farm electrical activity. ( )

**02. Conducting the Signature Test.** During this test, individual pieces of major current drawing equipment shall be started and stopped. The effects of starting, operating, and stopping each piece of equipment shall be measured and recorded for a period of operation of at least fifteen (15) seconds. The person conducting the test shall identify and record the equipment being tested and record the specific times that the equipment was started and stopped. A digitizing data recorder with averaging capability shall be used to measure and record the required electrical data. These measurements shall be taken at the same locations at the dairy where measurements were taken for the purpose of the load box test and forty-eight (48) hour test. ( )

- a. Voltage from primary neutral at the transformer to remote reference ground rod,  $V_p$ . ( )
- b. Secondary neutral at the service panel serving the area of cow contact to remote reference ground voltage,  $V_s$ . ( )
- c. Primary neutral voltage drop ( $V_{ps}$ ) from the location of connection for  $V_p$  to secondary neutral voltage at the location of the connection for  $V_s$ . ( )
- d. Cow contact voltage ( $V_{cc}$ ) or current ( $I_{cc}$ ) at the preselected point. ( )

**03. Recording the Data.** All of the data gathered by the recording equipment during the signature test, including transients shall be downloaded and retained with the records of the investigation. In addition, the steady state data shall be summarized in the investigation report. The recorded data shall be made available to the dairy producer or utility upon request. The location of all test point(s) shall be recorded on the form in Appendix 6. A plot of the voltage versus time may be substituted for the recording of measured values on Appendix 6. ( )

**079. -- 080. (RESERVED)**

**ANALYSIS AND REPORTING THE DATA**  
**Rules 81 through 90**

**081. ANALYZING THE COLLECTED DATA (RULE 81).**

**01. Cow Contact Points.** Examine the data recorded for the forty-eight (48) hour test in Appendix 2 and determine the highest steady state value of cow contact voltage ( $V_{cc}$ ) or current ( $I_{cc}$ ). Determine the value of primary neutral to reference voltage ( $V_p$ ) that was present for the highest cow contact value. Record these values on the data sheet of Appendix 7. These values shall be identified as "test cow contact voltage or current" ( $V_{cc}$  48hr or  $I_{cc}$  48hr) and "primary neutral to reference voltage at time of maximum cow contact voltage or current" ( $V_p$  48hr). The three (3) data sets created from the values are: ( )

- a. The primary to reference ground voltage and the cow contact voltage or current measured during the load box test (Appendix 5) with the farm power "off" and the load box "off" shall be recorded on the data sheet of Appendix 7 as  $V_p$  OFF and either  $V_{cc}$  OFF or  $I_{cc}$  OFF. ( )
- b. The primary to reference ground voltage and the cow contact voltage or current measured with the load box set at one-half (1/2) load shall be recorded on the data sheet of Appendix 7 as  $V_p$  HALF LOAD and either  $V_{cc}$  HALF LOAD or  $I_{cc}$  HALF LOAD. ( )
- c. The primary to reference ground voltage and the cow contact voltage or current measured with the load box at maximum shall be recorded on the data sheet of Appendix 7 as  $V_p$  FULL LOAD and ( )



either  $V_{CC \text{ FULL LOAD}}$  or  $I_{CC \text{ FULL LOAD}}$ . ( )

**02. Contributions to Stray Voltage or Current for Single Phase Dairies.** The utility contribution to cow contact voltage or current shall be determined using the following formula. Compare the values determined to the preventive action level (PAL).

$$\text{Utility contribution to cow contact voltage} = \frac{V_{p48} - V_{pHALF}}{V_{pFULL} - V_{pHALF}} \times (V_{CC \text{ FULL}} - V_{CC \text{ HALF}}) + V_{CC \text{ HALF}}$$

or

$$\text{Utility contribution to cow contact current} = \frac{V_{p48} - V_{pHALF}}{V_{pFULL} - V_{pHALF}} \times (I_{CC \text{ FULL}} - I_{CC \text{ HALF}}) + I_{CC \text{ HALF}} \quad ( )$$

**03. Contributions to Stray Voltage or Current for Three Phase Dairies.** The utility contribution to cow contact voltage or current for dairies with three (3) phase balanced load service, shall be determined by directly using the results of the load box test results for Step 1 and Step 2 as specified in Paragraph 077.02.b. ( )

**a.** The  $V_{CC}$  measured during Step 1 of the load box with the load box “off” and the dairy “on” will be the total  $V_{CC}$ . ( )

**b.** The  $V_{CC}$  measured during Step 2 of the load box test with the load box “off” and the dairy “off” is the contribution to  $V_{CC}$  from the utility,  $V_{CC \text{ utility}}$ . ( )

**c.** The contribution to  $V_{CC}$  by the dairy is the difference between  $V_{CC}$  and  $V_{CC \text{ utility}}$ ,  $V_{CC \text{ dairy}} = V_{CC} - V_{CC \text{ utility}}$ . ( )

**082. REPORTING (RULE 82).**

Within a reasonable period of time after completion of any tests required to be performed by the utility under these rules, a qualified analyst shall prepare a written report. The report shall include a summary of the tests performed, a copy of the sketch or drawing of the dairy prepared pursuant to Section 072, all of the data or results obtained from the tests, and an analysis of the data or results obtained from the tests. If remediation was required under these rules, the report shall specify the actions taken or to be taken. The utility shall provide a copy of the written report to the dairy producer. ( )

**083. -- 090. (RESERVED)**

**REMEDIAL ACTIONS AND COMMISSION PROCEEDINGS**  
**Rules 91 through 999**

**091. REMEDIATION (RULE 91).**

**01. Utility System.** If the utility is required to conduct remediation, it shall commence such remediation within five (5) business days. The utility shall diligently pursue to completion remedial procedures which shall reduce, and are reasonably likely to sustain, that portion of the stray current or voltage attributable to the utility’s distribution system to a level equal to or less than fifty percent (50%) of the PAL. This may include addressing other off-dairy sources. ( )

**02. Other Dairies, Farms and Industrial Sites.** If a utility’s contribution to stray voltage exceeds fifty percent (50%) of the PAL and the utility determines that another customer is a significant contributing source of stray voltage, the utility shall notify both the dairy and the other customer in writing. ( )

**092. COMMISSION PROCEEDINGS (RULE 92).**

**01. Filing with the Commission.** All petitions seeking relief under Section 61-805, Idaho Code, shall be filed with the Commission Secretary pursuant to Section 005. Petitions shall conform to IDAPA 31.01.01, Section 053. The petitioner shall file an original and five (5) copies of the petition. ( )

**093. FIGURES AND APPENDICES (RULE 93)**

All figures and appendices to these rules can be found on the Commission website at [www.puc.idaho.gov](http://www.puc.idaho.gov). ( )

**094. -- 999. (RESERVED)**

## IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION

### 31.81.01 – ENERGY CONSUMPTION REPORTING RULES

#### DOCKET NO. 31-8101-2201 (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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 the Authority of the Electric and Natural or Manufactured Gas Consumption from Ground Water Pumping Act (hereinafter the Energy Consumption Act), Chapter 13, Title 62, Idaho Code, the Public Records Act Section 74-107(13), Idaho Code, and Executive Order No. 2020-01.

**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.

The Idaho Public Utilities Commission initiated this rulemaking in compliance with [Executive Order No. 2020-01: Zero-Based Regulation](#), issued by Governor Little on January 16, 2020. Pursuant to Executive Order No. 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at [https://adminrules.idaho.gov/rulemaking\\_templates/index.html](https://adminrules.idaho.gov/rulemaking_templates/index.html). This is the Idaho Public Utilities Commission's rule chapter IDAPA 31.81.01 up for review in 2022.

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 July 6, 2022, Idaho Administrative Bulletin, [Vol. 22-7, 227-229](#).

**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 Stephen Goodson at (208) 334-0323. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Public Utilities Commission web site at the following web address: [www.puc.idaho.gov](http://www.puc.idaho.gov).

DATED this 9th day of August 2022.

Jan Noriyuki  
Commission Secretary  
11331 West Chinden Blvd, Ste 201-A  
Boise, ID 83714  
(208) 334-0323  
[Secretary@puc.idaho.gov](mailto:Secretary@puc.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 Authority of the Electric and Natural or Manufacture Gas Consumption from Ground Water Pumping Act (hereinafter the Energy Consumption Act), Chapter 13, Title 62, Idaho Code, and the Public Records Act Section 74-107(13), Idaho Code and [Executive Order No. 2020-01](#).

**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 July 20, 2022.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The Idaho Public Utilities Commission initiated this rulemaking in compliance with Executive Order No. 2020-01: Zero-Based Regulation, issued by Governor Little on January 16, 2020. Pursuant to Executive Order No. 2020-01, each rule chapter effective on June 30, 2020, shall be reviewed by the agency that promulgated the rule. The review will be conducted according to a schedule established by the Division of Financial Management, Office of the Governor (DFM), posted at [https://adminrules.idaho.gov/rulemaking\\_templates/index.html](https://adminrules.idaho.gov/rulemaking_templates/index.html). This is the Idaho Public Utilities Commission's rule chapter IDAPA 31.81.01 up for review in 2022.

**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 April 6, 2022 – Administrative Bulletin, [Vol. 22-4 page 45-46](#).

**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 Stephen Goodson at (208) 334-0323.

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 July 27, 2022.

DATED this May 17, 2022.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 31-8101-2201**

**31.81.01 – ENERGY CONSUMPTION REPORTING RULES**

**GENERAL PROVISIONS**  
**Rules 0 through 10**

**000. LEGAL AUTHORITY (RULE 0).**

Chapter 13, Title 62, Idaho Code. ( )

**001. TITLE AND SCOPE (RULE 1).**

These rules apply to all energy suppliers. These rules should be construed in connection with the Energy Consumption Act, the Public Utilities Law, the Public Records Law, and other applicable state laws. ( )

**002. -- 003. (RESERVED)**

**004. PUBLIC RECORD ACT COMPLIANCE (RULE 4).**

The energy consumption reports required by these rules are exempt from public disclosure and copying under Section 74-107(13), Idaho Code. ( )

**01. Consumption Reports.** The Department may release consumption reports to state entities including water districts and ground water districts to determine annual water usage or to other state and federal entities for research purposes provided the identity of individual customers or accounts is protected from public disclosure and cannot be ascertained from the reports. ( )

**005. DEFINITIONS (RULE 5).**

The following terms used in these rules are defined: ( )

**01. Commission.** The Idaho Public Utilities Commission. ( )

**02. Consumption Reports.** The reports created by the energy suppliers as authorized by these rules and submitted to the Department. ( )

**03. Department.** The Idaho Department of Water Resources. ( )

**04. Energy Suppliers.** All suppliers of electric power and natural or manufactured gas including all public utilities, municipal, mutual nonprofit, and cooperative corporations providing energy to an irrigation customer. ( )

**05. Geographic Areas.** Areas served by energy supplies as designated by the Commission. ( )

**06. Irrigation Customer.** A customer pumping ground water that is: ( )

**a.** Receiving service from an energy supplier under an irrigation service tariff or rate schedule; or ( )

**b.** Irrigating three (3) or more acres if such information is known to the energy supplier. ( )

**07. Irrigation Season.** As used in these rules means the calendar period from March 1 through October 31 or the energy supplier's billing cycles that include the calendar period. ( )

**08. Service Location.** The geographic position of the irrigation customer's pumping location(s) by address, pole number, legal description, longitude-latitude designations, or other description of where the service is delivered, to the extent such information is readily available to the energy supplier. ( )

**006. -- 010. (RESERVED)**

**REPORTING RULES**  
**Rules 11 through 20**

**011. REQUEST FOR REPORTS (RULE 11).**

No later than July 1 of each year, the Department may request consumption reports from energy suppliers for the current irrigation season. ( )

**01. Notification by Department.** The Department will notify energy suppliers serving specific geographic areas that consumption reports must be submitted. ( )

**02. Submission of Consumption Reports.** Once the Department requests the consumption reports, the energy supplier will prepare and submit the report to the Department as soon as possible following the close of the irrigation season but no later than January 5 of the following year. ( )

**012. CONTENTS OF CONSUMPTION REPORT (RULE 12).**

**01. Content of Consumption Reports.** Each consumption report will contain, to the extent available, the customer's full name, customer account number, service location, service location identification number, and the amount of energy consumed in kilowatt hours (KWH), or cubic feet of gas, or other applicable volume measurement for each service location. For each service location, the annual consumption report will state how much energy the customer consumed for each billing period during the irrigation season, and for the entire irrigation season. ( )

**013. REPORT FORMAT (RULE 13).**

Consumption reports will be forwarded to the Department electronically unless otherwise agreed to. ( )

**014. -- 020. (RESERVED)**

**REIMBURSEMENT RULES**  
**Rules 21 through 999**

**021. REIMBURSEMENT OF COSTS (RULE 21).**

Energy suppliers are entitled to reimbursement by the Department of the costs for preparing and submitting the consumption reports. Energy suppliers seeking reimbursement will itemize in sufficient detail their actual costs in preparing and submitting the data. ( )

**022. RESOLUTION OF REIMBURSEMENT DISPUTES (RULE 22).**

When an energy supplier and the Department are unable to resolve a reimbursement dispute, either party or both may seek informal dispute resolution with the Commission's staff. If the outcome of the informal proceeding is unsatisfactory to either party, the aggrieved party may file a formal complaint with the Commission under its Rules of Procedure. ( )

**023. -- 999. (RESERVED)**

## IDAPA 38 – DEPARTMENT OF ADMINISTRATION

### 38.04.06 – RULES GOVERNING USE OF STATE PROPERTY IN THE CAPITOL MALL, MULTI-AGENCY FACILITIES, AND OTHER STATE PROPERTIES

DOCKET NO. 38-0406-2201 (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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 67-5709, 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.

The Department of Administration has performed a critical and comprehensive review of the statutes and existing rule chapter. The Department has rewritten this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#).

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 September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 266-277](#).

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Bailey, (208) 332-1825.

DATED this October 7, 2022.

Steve Bailey  
Deputy Director  
Department of Administration  
650 W. State Street  
Room 100  
Boise, Idaho 83720  
[steven.bailey@adm.idaho.gov](mailto:steven.bailey@adm.idaho.gov)  
(208) 332-1825

**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 67-5709, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The Department of Administration is performing a critical and comprehensive review of the statutes and existing rules chapter. The Department is rewriting this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#).

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

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes being contemplated are not considered substantive and are expected to affect only the rule's format and duplication with other related rules.

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Bailey, (208) 332-1825.

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 September 28, 2022.

DATED this August 5, 2022.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 38-0406-2201**



**38.04.06 – RULES GOVERNING USE OF STATE PROPERTY IN THE CAPITOL MALL,  
MULTI-AGENCY FACILITIES, AND OTHER STATE PROPERTIES**

**SUBCHAPTER A – GENERAL PROVISIONS**

**000. LEGAL AUTHORITY.**

Section 67-5709, Idaho Code, gives the Director of the Department of Administration authority to promulgate rules governing the state properties in the Capitol Mall, Multi-agency Facilities, and Other State Properties. ( )

**001. SCOPE.**

These rules contain the provisions for use of the Capitol Mall Office Properties, the Capitol Annex, the Parking Facilities, the Other State Properties, and the Multi-agency Facilities. ( )

**002. -- 009. (RESERVED)**

**010. GENERAL DEFINITIONS.**

The definitions in this section may be supplemented or modified by definitions in separate subchapters. ( )

**01. Camping.** Any activity prohibited under Section 67-1613, Idaho Code. ( )

**02. Capitol Annex.** The Interior and Exterior of the real property located at 514 West Jefferson Street, Boise, Idaho and occupying block 65 as shown on the Boise City original townsite plat filed in the Ada County Recorder's office in Book 1 on page 1. ( )

**03. Capitol Mall Office Properties.** The Interior and Exterior of the real property set forth in Section 67-5709(2)(a) and (b), Idaho Code. The Capitol Mall Office Properties do not include the Idaho State Capitol or its grounds or the Capitol Mall Annex. ( )

**04. Commemorative Installation.** Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. ( )

**05. Common Space.** The portion of a State Facility that is not Tenant Space. Common Space includes, but is not limited to, interior lobbies not within Tenant Space and restrooms not accessed through Tenant Space. Common Space does not include Tenant Space or any area marked "private," "no admission," "staff only," or similarly designated as not open to the public. ( )

**06. Department.** The Department of Administration. ( )

**07. Director.** The Director of the Department of Administration or his designee. ( )

**08. Display.** An attended exhibition or installation of physical items during an Event. ( )

**09. Event.** Any activity including, but not limited to, arts or cultural presentations, weddings, dinners, award ceremonies, memorials, and seminars. ( )

**10. Exhibit.** Exhibitions or installations of physical items outside of an Event including, but not limited to, commemorative installations, floral displays, art objects, historical artifacts, and cultural objects. ( )

**11. Exterior.** The exterior of a State Facility, including the real property, the grounds, and the improvements on the exterior of the State Facility. ( )

**12. Interior.** The interior spaces within a State Facility. ( )

**13. Multi-Agency Facilities.** The Interior and Exterior of the properties set forth in Section 102 of

these rules. ( )

**14. Other State Properties.** The Interior and Exterior of the properties property set forth in Section 101 of these rules. ( )

**15. Parking Facilities.** The Interior and Exterior of the properties set forth in Section 67-5709(2)(b), Idaho Code. ( )

**16. Private Event or Private Exhibit.** Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. ( )

**17. Public Use.** Use that is not: ( )

**a.** A State Event or Exhibit; ( )

**b.** Use by a public officer, official, employee, contractor, agency, or board or commission for state of Idaho business; ( )

**c.** State Maintenance and Improvements; or ( )

**d.** Use by a Tenant. ( )

**18. Security Personnel.** A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. ( )

**19. State Business Day.** Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. ( )

**20. State Events and Exhibits.** All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. ( )

**21. State Facilities.** The Capitol Mall Office Properties, the Capitol Annex, the Multi-agency Facilities, the Parking Facilities and the Other State Properties. Use of the phrase “at the State Facilities” includes the Exterior and Interior of the State Facilities. Use of the singular “State Facility” means any of the properties within the definition of State Facilities. ( )

**22. State Maintenance and Improvements.** Maintenance or improvement of the State Facilities by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering, landscaping, aerating, turf installation and repair, resodding, fertilizing and planting, and structural maintenance such as pressure washing, painting, window cleaning and window re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. ( )

**23. Tenant.** A state of Idaho officer, official, agency, board or commission or a public agency or a private individual or entity with a license or lease to use a State Facility. ( )

**24. Tenant Space.** The portion of the Exterior licensed or leased to a private individual or entity and the portion of the Interior occupied by a state of Idaho officer, official, agency, board or commission or leased to a public agency or a private individual or entity. ( )

**011. -- 100. (RESERVED)**

**SUBCHAPTER B – APPLICATION TO OTHER STATE PROPERTIES  
AND MULTI-AGENCY FACILITIES**

**101. OTHER STATE PROPERTIES.**

These rules apply to the following Other State Properties pursuant to the request of the state of Idaho public entity owning or controlling the property: ( )

**01. Idaho State Historical Society Properties.** ( )

**a.** The following properties owned or operated by the Idaho State Historical Society are Other Properties under these rules: ( )

i. Idaho State Historical Museum, located at 610 North Julia Davis Drive, Boise, Idaho. ( )

ii. Old U.S. Assay Office, located at 210 Main Street, Boise, Idaho. ( )

iii. Old Penitentiary site located in Boise, Idaho and defined in Section 58-337, Idaho Code. ( )

iv. Idaho History Center, located at 2205 Old Penitentiary Road, Boise, Idaho. ( )

v. Franklin Historic Properties, located in Franklin, Idaho. The Franklin Historic Properties include the Franklin Co-operative Mercantile Institution Building, the Hatch House, the Doney House, and the Relic Hall. ( )

vi. Pierce Courthouse, located in Pierce, Idaho. ( )

vii. Rock Creek Station and Stricker Homesite, located at 3715 Stricker Cabin Road, Hansen, Idaho. ( )

**b.** The following sections of these rules apply to the Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules only as modified by this Paragraph 101.01.b.: ( )

i. Subsection 010.07. “Director” means the Executive Director of the Idaho State Historical Society when these rules are applied to the Idaho State Historical Society Properties. ( )

ii. Subsection 200.01. “Authorized Uses by the Public” applies except that the Director may authorize Private Events or Exhibits and the exclusion of members of the public from attending Private Events and Exhibits. For the purpose of this subsection, the grant of a lease or a license is authorization to exclude members of the public from a Private Event or Exhibit. ( )

iii. Section 302. “Maintenance and Improvements” applies as if the Idaho State Historical Properties were Capitol Mall Office Properties unless otherwise designated at the property, or posted on the Idaho State Historical Society website. ( )

iv. Subsection 305.02. “Domestic Animals” applies unless a sign at the property specifies that domestic animals are not permitted. ( )

**c.** The Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules may be licensed or leased and such license or lease may vary the provisions of these rules applicable to use of the property under this chapter, including but not limited to the following: commercial use; Public Use; Private Events or Exhibits; consumption and distribution of alcohol; affixing of materials to the Idaho State Historical Society Properties; use of sound amplification; fireworks displays; and, use of utilities. ( )

**02. Idaho Division of Veterans Services Properties.** ( )

**a.** The following properties owned or operated by the Idaho Division of Veterans Services are “Other State Properties” under these rules: ( )

i. Idaho Division of Veterans Services Central Support Office, located at 351 Collins Road, Boise,

- Idaho. ( )
- ii. Idaho State Veterans Home – Boise, located at 351 Collins Road, Boise, Idaho. ( )
  - iii. Idaho State Veterans Home – Lewiston, located at 821 21st Avenue, Lewiston, Idaho. ( )
  - iv. Idaho State Veterans Home – Pocatello, located at 1957 Alvin Ricken Drive, Pocatello, Idaho. ( )
  - v. Idaho State Veterans Home – Post Falls, located at 590 S. Pleasant View Road 101, Post Falls, Idaho. ( )
  - vi. Idaho State Veterans Cemetery – Boise, located at 10100 N. Horseshoe Bend Road, Boise, Idaho. ( )
  - vii. Idaho State Veterans Cemetery – Blackfoot, located at 2651 Cromwell Lane, Blackfoot, Idaho. ( )
- b.** The following subsections of these rules apply to the Idaho Division of Veterans Services properties set forth in Paragraph 101.02.a. of these rules only as modified by this Paragraph 101.02.b.:
- i. Subsection 010.07. “Director” means the Chief Administrator of the Division of Veterans Services when these rules are applied to the Idaho Division of Veterans Services properties set forth in Paragraph 101.02.a. of these rules. ( )
  - ii. Subsection 200.01. “Public Use” shall not apply to the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules. Such properties include the exterior courtyards, patios, gardens, outside yards, and other similar residential spaces directly adjacent to the homes. ( )
  - iii. Subsection 200.02.a. “Prohibited Uses” applies except those concessions at the Idaho Division of Veterans Services properties authorized by the Director are not commercial activity prohibited by these rules. ( )
  - iv. Subsection 200.02.b. “Prohibited Uses” applies except those activities conducted by residents or staff of the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules may include the indicia of camping set forth in Section 67-1613, Idaho Code. ( )
  - v. Subsection 200.02.c. “Prohibited Uses” applies except as set forth in this subsection. ( )
- (1) The Director may authorize Private Events or Exhibits and the exclusion of members of the public from attending Private Events and Exhibits. For the purpose of this subsection, the grant of a lease or a license is authorization to exclude members of the public from a Private Event or Exhibit. ( )
- (2) Burial services conducted by the Idaho State Veterans Cemeteries set forth in Paragraphs 101.02.a.vi. and vii. exclude the public. The public may not use portions of such cemeteries during burial services as directed by cemetery staff. ( )
- vi. Subsection 305.01.b. “Wildlife” applies except that the Director may authorize residents and staff of the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules to feed wildlife. ( )
  - vii. Subsection 305.02. “Domestic Animals” applies except that the Director may authorize domestic animals in the interior of the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules. ( )
  - viii. Subsection 307.02. “Alcohol” applies except as authorized by the Director for the prescribed medical treatment of a resident of the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules. ( )
  - ix. Subsection 309. “Fire, Candles, and Flames” applies except that the Director may authorize the use

of flames for the cooking of food by staff, contractors, and lessees or licensees. ( )

x. Subsection 310.08 “Surface Markings” applies except transitory chalk may be used in areas and at times designated by the Director at the State Veterans Homes set forth in Paragraph 101.02.a.ii. to v. of these rules. ( )

xi. Subsection 317.04 “Fireworks” applies except fireworks displays authorized by the Director. ( )

**03. Idaho Department of Labor Properties.** ( )

a. The following properties owned or operated by the Idaho Department of Labor are “Other State Properties” under these rules: ( )

i. 600 N. Thornton Street, Post Falls, Idaho. ( )

ii. 613 Ridley Village Road, Suite C, Sandpoint, Idaho. ( )

iii. 1158 Idaho Street, Lewiston, Idaho. ( )

iv. 4514 Thomas Jefferson Street, Caldwell, Idaho. ( )

v. 317 W. Main Street, Boise, Idaho. ( )

vi. 219 W. Main Street, Boise, Idaho. ( )

vii. 420 Falls Avenue, Twin Falls, Idaho. ( )

viii. 127 West 5th Street North, Burley, Idaho. ( )

ix. 430 North 5th Avenue, Pocatello, Idaho. ( )

x. 1515 East Lincoln Road, Idaho Falls, Idaho. ( )

b. Subsection 010.07. “Director” means the Director of the Department of Labor when these rules are applied to the Idaho Department of Labor properties set forth in Paragraph 101.03.a. of these rules. ( )

**102. MULTI-AGENCY FACILITIES.**  
These rules apply to the following Multi-agency Facilities managed and administered by the Department. ( )

**01. Lewiston State Office Building.** Lewiston State Office Building, 1118 F Street, Lewiston, Idaho 83501. ( )

**02. Idaho Falls State Office Building.** Idaho Falls State Office Building, 150 Shoup Avenue, Idaho Falls, Idaho 83401. ( )

**03. Chinden Office Complex.** The Chinden Office Complex is located in Boise, Idaho and bounded to the north by West Chinden Boulevard, to the west by North Cloverdale Road, to the east by North Five Mile Road, and to the south by the Jones-Stiburek, Orchid Point, De Meyer Estates No. 7, Hickories No. 1, 9 and 12, Hickories East and EMS Avenue Subdivisions. The Chinden Office Complex includes Buildings 1 through 8 and the grounds adjacent to such buildings. ( )

**103. -- 199. (RESERVED)**

**SUBCHAPTER C – GENERAL RULES FOR PUBLIC USE**

**200. USE OF STATE FACILITIES.**

**01. Authorized Uses by the Public.** Except as provided otherwise in these rules, the State Facilities are available for Public Use. ( )

**02. Prohibited Uses.** The following uses are prohibited at the State Facilities: ( )

**a. Commercial Activity.** The State Facilities shall not be used for any activity conducted for profit and persons may not solicit to sell any merchandise or service at the State Facilities. The following are not commercial activity prohibited by this subsection: ( )

**i.** Meetings or conferences for public employees or their relatives describing employee benefits and approved by a state of Idaho agency. ( )

**ii.** Concessions authorized by law. ( )

**iii.** Vaccinations may be provided in exchange for a fee without the prior written permission of the Director where approved by a state of Idaho agency, board, commission or elected official. ( )

**iv.** The conduct of business by a Tenant. ( )

**b.** Camping. ( )

**c.** Private Events and Exhibits. ( )

**03. Priority of Uses.** State Maintenance and Improvements have priority over all other use of the State Facilities. ( )

**04. Limitations on Public Access and Use.** ( )

**a.** Public Access to the Interior. Public access to the Interior and to Tenant Space is limited to the conduct of business with a Tenant. ( )

**b.** Common Space. The public shall not use the Common Space for Events, Exhibits, or Displays. ( )

**c.** Hours of Use. ( )

**i.** Unless otherwise provided in these rules or when extended hours are posted at the public entrance to a State Facility, the hours for public access to the Interior of the State Facilities are 8 a.m. to 5 p.m. on State Business Days. ( )

**ii.** The hours of use of the Parking Facilities are governed by IDAPA 38.04.04, "Capitol Mall Parking Rules." ( )

**iii.** The hours for public access to the Exterior of the Chinden Office Complex are from sunrise to sunset. ( )

**d.** Restricted Areas. Areas of the State Facilities marked "private," "no admission," "staff only," or similarly designated as not open to the public are not available for public use. ( )

**201. (RESERVED)**

**202. EQUIPMENT AND SUPPLIES.**

Except as provided in these rules, the Department will not provide equipment or supplies for use of the State Facilities. ( )

**203. ESTABLISHMENT OF PERIMETERS.**

Security Personnel and law enforcement may establish perimeters separating participants in Public Use of the State Facilities or State Events and Exhibits. Participants in and observers of any Public Use or State Events and Exhibits shall observe perimeters set pursuant to this section. ( )

**204. AREA CLOSURES.**

The Director may direct that any portion of the State Facilities be closed for Public Use upon a finding that the closed portion of the State Facilities has sustained damage or is in imminent danger of sustaining damage. The closure directive shall identify the portion of the State Facilities closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the State Facilities. Circumstances presenting an imminent danger of damage to the State Facilities include, but are not limited to, the saturation of soil, turf, or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. ( )

**205. -- 299. (RESERVED)**

**300. RESTRICTIONS AND LIMITATIONS ON USE.**

The restrictions and limitations on use of the State Facilities set forth in Sections 301 through 399 of these rules apply to all Public Use of the State Facilities. The lease or license of Tenant Space may vary from these rules for use by the Tenant, its employees, and its invited guests. Subchapters of these rules applicable to a State Facility may vary from the rules in Sections 200 through 399 of these rules for Public Use of the State Facility. ( )

**301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.**

**01. Interference with Primary Use of Facility or Real Property.** Public Use of the State Facilities shall not interfere with the primary use of the facility or real property adjoining the facility. The primary uses of the State Facilities include, but are not limited to, public meetings and hearings, court proceedings, and the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the affected facility or the real property adjoining the facility. The primary use of the State Facilities also includes the conduct of business by Tenants leasing or licensing a portion of the State Facility. ( )

**02. Interference with Access.** Public Use of the State Facilities shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the State Facilities. ( )

**302. MAINTENANCE AND IMPROVEMENTS.**

Public Use shall not interfere with State Maintenance and Improvements. The Department will publish the regular maintenance and improvement schedule at the Department's website. The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes arising after the schedule's publication. ( )

**303. MOTORIZED VEHICLES.**

**01. Operation on Designated Areas.** Motorized vehicles not owned or operated by the state of Idaho or law enforcement must remain on designated roadways and parking areas. ( )

**02. Parking.** Parking of motorized vehicles at the Capitol Mall is governed by IDAPA 38.04.04, "Capitol Mall Parking Rules." Except as provided in IDAPA 38.04.04, Public Use of the State Facilities for parking is limited to the period the operator or passengers are using the State Facility in compliance with these rules. Unless approved by the Director, the public shall not park motorized vehicles overnight at the State Facilities. Public parking may be limited to designated parking areas. ( )

**03. Towing.** Motorized vehicles parked outside of designated parking areas and times may be towed without notice at the vehicle owner's expense. ( )

**04. Excluded Vehicles.** Wheelchairs, motorized scooters, and other equipment providing individual mobility to the disabled are not motorized vehicles for the purposes of this section. ( )

**304. BICYCLES, SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.**

Bicycles, skates, skateboards, and scooters may not be used at the State Facilities. Users of all other non-motorized transportation must remain on designated pathways during use. Where indicated by a posted notice or where requested by Security Personnel, law enforcement or a state employee or agent supervising a State Facility, users must store non-motorized transportation in a designated storage area on the exterior of a State Facility. Wheelchairs and other equipment providing individual mobility to the disabled are not non-motorized transportation for the purposes of this section. ( )

**305. ANIMALS.**

The following apply to animals at the State Facilities: ( )

**01. Wildlife.** Unless authorized by the Director, persons may not: ( )

**a.** Interfere with, hunt, molest, harm, frighten, kill, trap, chase, tease, annoy, shoot, or throw any object at a wild animal at the State Facilities. ( )

**b.** Feed, give, or offer food or any noxious substance to a wild animal at the State Facilities. ( )

**02. Domestic Animals.** ( )

**a.** Domestic animals are not allowed at the State Facilities unless leashed and under the control of the person bringing the animal to the State Facility. ( )

**b.** The person bringing the animal to the Exterior of the State Facilities shall have in his possession the equipment necessary to remove the animal's fecal matter and immediately remove all fecal matter deposited by the animal. ( )

**c.** Animals are not allowed at the Interior unless the animal is a service animal necessary to assist individuals with disabilities or an animal in the service of Law Enforcement. The person bringing the animal to the Interior shall have in his possession the equipment necessary to remove the animal's urine and feces and immediately remove all urine and feces deposited by the animal. ( )

**306. LANDSCAPING.**

Unless authorized by the Director, no person shall: ( )

**01. Plants.** Damage, cut, carve, transplant or remove any plant, including but not limited to trees, at the State Facilities. ( )

**02. Grass.** Dig in or otherwise damage grass areas at the State Facilities. ( )

**03. Irrigation Equipment.** Interfere with, damage or remove irrigation equipment at the State Facilities. ( )

**04. Landscaping Materials.** Move or alter landscaping materials at the State Facilities including, but not limited to, rock, edging materials, and bark or mulch. ( )

**05. Climbing.** Climb or scale buildings, memorials, statues, trees, fences, or improvements at the State Facilities. ( )

**307. FOOD AND BEVERAGES.**

Consumption of food and beverages at the State Facilities is subject to the following: ( )

**01. Consumption May Be Prohibited.** The consumption of food and beverages may be prohibited by a notice posted at the entrance to all or a portion of the State Facilities. ( )



**02. Alcohol.** Alcohol may not be consumed or distributed at the State Facilities. ( )

**308. SMOKING.**

All persons shall observe the smoke free entrance notices and smoke or vape only in designated Exterior areas. Smoking and vaping is not allowed in the Interior. ( )

**309. FIRES, CANDLES, AND FLAMES.**

No fires, candles, or other sources of open flame are permitted at the State Facilities. ( )

**310. POSTERS, PLACARDS, BANNERS, SIGNS, EQUIPMENT, TABLES, MATERIALS, AND DISPLAYS.**

**01. Electrical Cords.** Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. ( )

**02. Railings and Stairways.** Items may not be placed on railings or stairways and no persons shall sit or stand on railings or stairways. ( )

**03. Tossing or Dropping Items.** Items may not be tossed or dropped over railings or from one level of a facility to another level or to the ground. ( )

**04. Ingress or Egress.** No item, including tables, chairs, exhibits, equipment, materials, and Displays shall be located so as to block ingress or egress to any portion of the State Facilities, or to restrict the follow of individuals using the facility, or to restrict emergency egress or ingress. ( )

**05. Attaching, Affixing, Leaning, or Propping Materials.** Posters, placards, banners, signs, and Displays, including any printed materials, shall not be affixed on any exterior surface of the State Facilities not designed for that purpose or on any permanent Commemorative Installation, post, railing, fence or landscaping, including trees. All posters, placards, banners, signs, and Displays must be free-standing or supported by individuals. Items may not be leaned or propped against any exterior surface of the State Facilities or embedded into the ground, including, but not limited to, placement of a stake, post, or rod into the ground to support materials. ( )

**06. Materials Causing Damage to Exterior Surface.** Stages, risers, chairs, tables, sound equipment, props, materials, Displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface at the State Facilities or any systems or utilities of the State Facilities including, but not limited to, fire suppression systems, storm drains, ventilation systems, and landscape watering systems. ( )

**07. Free Distribution of Literature and Printed Material.** All literature and printed material must be distributed at no charge. The party distributing literature and printed material shall ensure periodically and at the conclusion of its use of the State Facilities that such material is not discarded outside of designated trash receptacles. ( )

**08. Surface Markings.** Users shall not use any material to mark on any surface of the State Facilities including chalk, paint, pens, ink, or dye. ( )

**311. ITEMS SUBJECT TO SEARCH.**

To enhance security and public safety, Security Personnel or law enforcement may inspect: ( )

**01. Packages and Bags.** Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by these rules. ( )

**02. Items.** Items brought to the State Facilities, if there is a reasonable suspicion that an item may be capable of injuring, damaging or harming persons or property at the State Facilities. ( )

**312. PROHIBITED ITEMS.**

The following, as defined in Title 18, Chapter 33, Idaho Code, are not permitted at the State Facilities: bombs, destructive devices, shrapnel, weapons of mass destruction, biological weapons, and chemical weapons. Security

Personnel or law enforcement may direct that any person at the State Facilities immediately remove from the State Facilities any club, bat, or other item that can be used to injure, damage, or harm persons or property. ( )

**313. (RESERVED)**

**314. UTILITY SERVICE.**

The public may not use the utility services of the State Facilities other than restrooms; provided, however, the Director may authorize limited use of electrical service for the duration of Public Use authorized by these rules. Utility services include, but are not limited to, electrical, sewage, water, heating, and geothermal services. The Director may terminate the use of utilities if such use interferes with the utility services of the State Facilities or the equipment or apparatus using utility service fails to comply with applicable rules or codes. ( )

**315. LAW ENFORCEMENT AND FACILITY EXIGENCY.**

In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, law enforcement, Security Personnel and state employees or officials may direct all persons off of the State Facilities and delay or postpone any activity until the emergency or threat is abated. ( )

**316. COMPLIANCE WITH LAW.**

All use of the State Facilities shall comply with applicable law including, but not limited to, fire and safety codes. ( )

**317. HEALTH, SAFETY, AND MAINTENANCE OF STATE FACILITIES.**

**01. Clean Condition After Use.** Users shall leave the State Facilities in reasonably clean condition after use, including depositing all trash in designated receptacles. ( )

**02. Items Return to Proper Location.** Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of the use. ( )

**03. Public Health.** No person shall excrete human waste at the State Facilities except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine. ( )

**04. Fireworks.** No person shall possess or use fireworks at the State Facilities. ( )

**318. REMOVAL OF ITEMS.**

All items brought to the State Facilities by the public shall be removed at the conclusion of the person's use of the State Facility and prior to the expiration of each day's hours of use by the public. Unless items are subject to report and transfer to the state treasurer as unclaimed property pursuant to Idaho law, the Director may authorize disposal of items left at the State Facilities. ( )

**319. -- 399. (RESERVED)**

**400. LIABILITY.**

**01. State Liability.** Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, Title 6, Chapter 9, Idaho Code. ( )

**02. No Endorsement.** Action or inaction of the Department shall not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in Public Use of the State Facilities. ( )

**401. -- 499. (RESERVED)**

**SUBCHAPTER D – RULES FOR PUBLIC USE OF THE CHINDEN OFFICE COMPLEX**

**500. ADDITIONAL DEFINITIONS.**

The following additional definitions apply to Public Use of the Chinden Office Complex: ( )

**01. Recreational Facilities.** Facilities designated by the Director for Recreational Use. ( )

**02. Recreational Use.** Use for leisure or athletic purposes such as picnicking and sports practices or informal sports games. ( )

**501. USE OF RECREATIONAL FACILITIES.**

The Director may authorize reservation of Recreational Facilities under this section by a Tenant and the exclusion of members of the public from use of Recreational Facilities during reserved periods. Unless reserved by a Tenant, Recreational Facilities are available for Recreational Use by the public on a first-come, first-used basis from sunrise to sunset daily. ( )

**502. ALCOHOL.**

Section 307 of these rules is modified by this section. Alcohol may be consumed or distributed in the Tenant Space at the Chinden Office Complex if such space is licensed or leased to a private individual or entity. ( )

**503. FIRES, CANDLES, AND FLAMES.**

Section 309 of these rules is modified by this section. Fires and other sources of open flame are permitted in designated barbecue facilities at the Chinden Office Complex. ( )

**504. USE OF WATERWAYS.**

No person shall swim, fish, or wade in waterways at the Chinden Office Complex. Persons bringing domestic animals to the Chinden Office Complex shall not permit the animal to swim or wade in waterways at the Chinden Office Complex. Waterways include ponds, ditches, and canals. ( )

**505. -- 999. (RESERVED)**

## IDAPA 38 – DEPARTMENT OF ADMINISTRATION

### 38.04.07 – RULES GOVERNING USE OF THE INTERIOR OF STATE PROPERTY IN THE CAPITOL MALL AND OTHER STATE FACILITIES

DOCKET NO. 38-0407-2201 (ZBR CHAPTER REPEAL)

#### 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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 67-5709, 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.

The Department of Administration has performed a critical and comprehensive review of the statutes and existing rule chapter. As a result of the review, the Department has made the determination to repeal this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#). Necessary provisions have been retained and included in companion docket no. 38-0406-2201 published in this bulletin.

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 September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, page 278](#).

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Bailey, (208) 332-1825.

DATED this October 7, 2022

Steve Bailey  
Deputy Director  
Department of Administration  
650 W. State Street  
Room 100  
Boise, Idaho 83720  
[steven.bailey@adm.idaho.gov](mailto:steven.bailey@adm.idaho.gov)  
(208) 332-1825

**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 67-5709, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The Department of Administration is performing a critical and comprehensive review of the statutes and existing rules chapter. As a result of the review, the Department has made the determination to repeal this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#). Necessary provisions have been retained and included in companion docket no. 38-0406-2201 published in this bulletin.

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

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the repeal of this chapter will result in the reduction of regulatory burden.

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Bailey, (208) 332-1825.

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 September 28, 2022.

DATED this August 5, 2022.

**IDAPA 38.04.07 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 38 – DEPARTMENT OF ADMINISTRATION**  
**38.04.08 – RULES GOVERNING USE OF IDAHO STATE CAPITOL**  
**DOCKET NO. 38-0408-2202 (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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 67-1604, 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.

The Department of Administration has performed a critical and comprehensive review of the statutes and existing rule chapter. The Department has rewritten this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#).

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 September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 279-290](#).

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Bailey, (208) 332-1825.

DATED this October 7, 2022

Steve Bailey  
Deputy Director  
Department of Administration  
650 W. State Street  
Room 100  
Boise, Idaho 83720  
[steven.bailey@adm.idaho.gov](mailto:steven.bailey@adm.idaho.gov)  
(208) 332-1825

**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 67-1604, 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 September 21, 2022.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The Department of Administration is performing a critical and comprehensive review of the statutes and existing rules chapter. The Department is rewriting this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#).

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

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes being contemplated are not considered substantive and are expected to affect only the rule's format and duplication with other related rules.

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Bailey, (208) 332-1825.

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 September 28, 2022.

DATED this August 5, 2022.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 38-0408-2202**

**38.04.08 – RULES GOVERNING USE OF IDAHO STATE CAPITOL**

**000. LEGAL AUTHORITY.**

Section 67-1604, Idaho Code, gives the Director of the Department of Administration authority to promulgate rules governing access to and use by the public of the capitol building and its grounds after consultation with the governor, the presiding officers of the senate and house of representatives, and the Capitol Commission. Section 67-5709, Idaho Code, gives the Director authority to promulgate rules governing certain public facilities, subject to the provisions of Section 67-1602, Idaho Code, which determines the control and allocation of space in the Idaho State Capitol, and after making the consultations required in Section 67-1604, Idaho Code. ( )

**001. SCOPE.**

These rules contain the provisions for use of the Idaho State Capitol. ( )

**01. Application to Space Controlled by the Idaho Legislature.** The Idaho legislature is exempt from the application of the Idaho Administrative Procedure Act, pursuant to Section 67-5201(2), Idaho Code. Space within the Idaho State Capitol controlled by the Idaho legislature is governed by Section 67-1602(3), Idaho Code, and rules enacted under the procedures of the Idaho legislature. ( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Camping.** Any activity prohibited under Section 67-1613, Idaho Code. ( )

**02. Capitol Commission.** The Idaho State Capitol Commission established in Section 67-1606, Idaho Code. ( )

**03. Commemorative Installation.** Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. ( )

**04. Department.** The Department of Administration. ( )

**05. Director.** The Director of the Department of Administration or his designee. ( )

**06. Display.** An attended exhibition or installation of physical items during an Event. ( )

**07. Event.** Any activity including, but not limited to, arts or cultural presentations, weddings, dinners, award ceremonies, memorials, and seminars. ( )

**08. Exhibit.** Exhibitions or installations of physical items outside of an Event including, but not limited to, commemorative installations, floral displays, art objects, historical artifacts, and cultural objects. ( )

**09. Exterior.** The exterior of the Idaho State Capitol, the real property, the grounds, and the improvements on the exterior of the Idaho State Capitol or on its grounds. ( )

**10. Idaho State Capitol.** The building and grounds governed by chapter 16, title 67, Idaho Code, and located at capitol square as identified on the Boise City original townsite plat filed in the Ada County Recorder's office in book 1 on page 1. The Idaho State Capitol is bounded by the following streets: State Street, Sixth Street, Jefferson Street, and Eighth Street. ( )

**11. Interior.** The interior spaces within the Idaho State Capitol. ( )

**12. Jefferson Steps.** The building entrance at the second floor of the Idaho State Capitol, the steps extending from the entrance, and the hard surface extending between the steps and the sidewalk along Jefferson



Street. ( )

**13. Law Enforcement.** An officer of the Idaho state police, Ada County sheriff's office, or Boise City police granted authority to enforce the laws of the state of Idaho and ordinances for the Idaho State Capitol pursuant to Section 67-1605, Idaho Code, or any peace officer as defined in Section 19-5101, Idaho Code, or an equivalent law enforcement officer in the service of the United States who is authorized by law or the Idaho State Police to exercise jurisdiction at the Idaho State Capitol. ( )

**14. Legislative Galleries.** The areas of the Interior overlooking the Senate and the House and accessed from the fourth floor of the Interior. ( )

**15. Legislative Hearing Rooms.** A room in the Interior holding a meeting of a committee of the Idaho legislature. ( )

**16. Permit.** A written authorization issued by the Director allowing use of the Idaho State Capitol as set forth in the Permit. A Permit serves as a reservation to use a portion of the Idaho State Capitol with the priority for use set forth in Subsection 200.04 of these rules. ( )

**17. Presiding Officer.** The Presiding Officer of the Senate is the President Pro Tempore. The Presiding Officer of the House is the Speaker. The Presiding Officer of a standing, joint, or special legislative committee is the legislator chairing the committee hearing. ( )

**18. Private Event or Private Exhibit.** Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. ( )

**19. Private Space.** The portion of the Interior that is not Public Space. ( )

**20. Public Space.** The portion of the Interior that is maintained by the Department pursuant to Section 67-1602(1), Idaho Code, and is not designated as closed to the public by being marked "private," "no admission," "staff only," or similarly designated as not open to the public. ( )

**21. Public Use.** Use that is not: ( )

**a.** A State Event or Exhibit; ( )

**b.** Use by a public officer, official, employee, contractor, agency, or board or commission for state of Idaho business; or ( )

**c.** State Maintenance and Improvements. ( )

**22. Security Personnel.** A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. ( )

**23. State Business Day.** Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. ( )

**24. State Events and Exhibits.** All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. ( )

**25. State Maintenance and Improvements.** Maintenance or improvement of the Idaho State Capitol by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering, landscaping, aerating, resodding, fertilizing and planting; and structural maintenance such as pressure washing, painting, window cleaning, and re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as

construction fencing, generators and portable buildings. ( )

**011. -- 199. (RESERVED)**

**200. USE OF IDAHO STATE CAPITOL.**

**01. Authorized Uses by the Public. ( )**

**a.** Except as provided otherwise in these rules, the Exterior and the Public Space is available for Public Use. ( )

**b.** Public access to Private Space occupied by a state of Idaho officer, official, agency, board or commission, including an elected official other than a legislator, is limited to the conduct of business with the occupant of the space. ( )

**c.** Unless otherwise directed by the Presiding Officer, public access to space controlled by the Idaho legislature is limited to the Legislative Galleries, Legislative Hearing Rooms, and the conduct of legislative business with a legislator. ( )

**d.** Temporary and permanent placement of Exhibits in the Public Space shall be reviewed by the Capitol Commission in accordance with Section 67-1608(3), Idaho Code. Placement of Exhibits does not include Displays during a Public Use permitted by these rules. ( )

**02. Prohibited Uses.** The following uses are prohibited at the Idaho State Capitol: ( )

**a.** Commercial Activity. The Exterior and the Public Space shall not be used for any activity conducted for profit and persons may not solicit to sell any merchandise or service on the Exterior or in the Public Space. Events promoting an industry, product or service in the Public Space under a Permit are not prohibited by this rule if the Event is limited to Displays, distribution of information, including literature, or both and participants are not soliciting orders or contracts for a product or service. ( )

**b.** Camping. ( )

**c.** Private Events and Private Exhibits. ( )

**03. Priority of Uses.** State Maintenance and Improvements has priority over all other use of the Idaho State Capitol. The conduct of business by the public entity or official occupying or controlling Private Space shall have priority over Public Use of the Idaho State Capitol. Public Use held under a Permit has priority over other Public Use. ( )

**04. Use of Space Controlled by the Idaho Legislature.** Use of space controlled by the Idaho legislature, including Public Use, is governed by chapter 16, title 67, Idaho Code, and the rules adopted by the Idaho legislature as described in Subsection 001.03 of these rules. ( )

**201. (RESERVED)**

**202. EQUIPMENT AND SUPPLIES.**

Except as provided in these rules, the Department will not provide equipment or supplies for use on the Idaho State Capitol. Where requested in a Permit application for use of the Jefferson Street Steps or the Public Space, the Department shall provide a podium and a public address system, unless such equipment is being repaired or replaced. ( )

**203. ESTABLISHMENT OF PERIMETERS.**

Security Personnel and Law Enforcement may establish perimeters separating participants in Public Use of the Idaho State Capitol or State Events or Exhibits. Participants in and observers of any Public Use or State Events or Exhibits shall observe perimeters set pursuant to this section. ( )

**204. AREA CLOSURES.**

The Director may direct that any portion of the Idaho State Capitol be closed for Public Use upon a finding that the closed portion of the Idaho State Capitol has sustained damage or is in imminent danger of sustaining damage. The closure directive shall identify the portion of the Idaho State Capitol closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the Idaho State Capitol. Circumstances presenting an imminent danger of damage to the Exterior include, but are not limited to, the saturation of soil, turf, or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. ( )

**205. -- 299. (RESERVED)**

**300. RESTRICTIONS AND LIMITATIONS ON USE.**

The restrictions and limitations on use of the Idaho State Capitol set forth in Sections 301 through 399 of these rules shall apply to all Public Use of the Idaho State Capitol. ( )

**301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.**

**01. Interference With Primary Use of Idaho State Capitol.** Events, Exhibits, and Public Use of the Idaho State Capitol shall not interfere with the primary use of the Idaho State Capitol. The primary uses of the Idaho State Capitol are legislative proceedings, public meetings and hearings, court proceedings, and the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the Idaho State Capitol. ( )

**02. Interference With Access.** Public Use of the Idaho State Capitol shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the Idaho State Capitol. ( )

**302. LOCATIONS AND HOURS.**

**01. Interior Hours.** The hours for Public Use and public access to the Interior shall include the periods in which public meetings and other activities open to the public are held within the Interior. The hours for Public Use will be posted, where feasible, to the website containing official Idaho State Capitol information. Participants in Public Use of the Interior shall exit the Interior at the conclusion of the hours for Public Use. Public hours shall not be reduced during Public Use authorized under these rules unless an emergency or threat exists under Section 315 of these rules. ( )

**02. Exterior Use Locations.** In addition to limitations on the interference with access set forth in Section 301 of these rules and compliance with all fire, health, and safety codes, Public Use on the Exterior shall be: ( )

**a.** On the Jefferson Street Steps or on hard surfaces, including concrete and granite, on the Exterior; and ( )

**b.** At least fifteen (15) feet from the exterior walls and windows of the Idaho State Capitol. ( )

**303. MAINTENANCE AND IMPROVEMENTS.**

Public Use shall not interfere with State Maintenance and Improvements. The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes. ( )

**304. MOTORIZED VEHICLES.**

Motorized vehicles not owned or operated by the state of Idaho or Law Enforcement must remain on designated roadways and parking areas. Parking of motorized vehicles is governed by IDAPA 38.04.04, "Capitol Mall Parking Rules." Wheelchairs, motorized scooters, and other equipment providing individual mobility to individuals with a disability are not motorized vehicles for the purposes of this section. ( )

**305. BICYCLES, SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.**

Bicycles, skates, skateboards, and scooters may not be used at the Idaho State Capitol. Users of all other non-motorized transportation must remain on designated pathways during use of the Exterior. Where indicated by a posted notice or where requested by Security Personnel, Law Enforcement or a state employee or agent supervising the Idaho State Capitol, users must store non-motorized transportation in a designated storage area on the Exterior. Wheelchairs and other equipment providing individual mobility to individuals with a disability are not non-motorized transportation for the purposes of this section. ( )

**306. ANIMALS.**

The following apply to animals on the Idaho State Capitol: ( )

**01. Wildlife.** Unless authorized by the Director persons may not: ( )

**a.** Interfere with, hunt, molest, harm, frighten, kill, trap, chase, tease, annoy, shoot or throw any object at a wild animal on the Exterior. ( )

**b.** Feed, give or offer food or any noxious substance to a wild animal on the Exterior. ( )

**02. Domestic Animals.** ( )

**a.** Domestic animals are not allowed on the Exterior unless leashed and under the control of the person bringing the animal to the Exterior. ( )

**b.** Domestic animals are not allowed in the Interior unless the animal is a service animal necessary to assist individuals with disabilities or an animal in the service of Law Enforcement. Animals allowed under this rule must be leashed and under the control of the person bringing the animal to the Interior. ( )

**c.** The person bringing the domestic animal to the Exterior Idaho State Capitol shall have in his possession the equipment necessary to remove the animal's fecal matter and immediately remove all fecal matter deposited by the animal. The person bringing the animal to the Interior shall have in his possession the equipment necessary to remove the animal's urine and feces and immediately remove all urine and feces deposited by the animal. ( )

**307. LANDSCAPING AND IMPROVEMENTS.**

Persons other than state employees or contractors designated by the Director may not: ( )

**01. Plants.** Damage, cut, carve, transplant or remove any plant including, but not limited to, trees, on the Exterior. ( )

**02. Grass.** Dig in or otherwise damage grass areas on the Exterior. ( )

**03. Irrigation Equipment.** Interfere with, damage or remove irrigation equipment on the Exterior. ( )

**04. Landscaping Materials.** Move or alter landscaping materials on the Exterior including, but not limited to, rock, edging materials, and bark or mulch. ( )

**05. Climbing.** Climb or scale buildings, Commemorative Installations, trees, fences, posts or other improvements at the Idaho State Capitol. ( )

**308. FOOD AND BEVERAGES.**

Consumption of food and beverages at the Idaho State Capitol is subject to the following: ( )

**01. Consumption May Be Prohibited.** The consumption of food and beverages, including water, may be prohibited by a notice posted at the entrance to all or a portion of the Exterior. Each authority granted control of a portion of the Interior as described in Section 67-1602, Idaho Code, may prohibit the consumption of food and

beverages, including water, in that portion of the Interior by posting a notice at one (1) or more of the entrances to the portion of the Interior under its control. ( )

**02. Alcohol.** Alcohol may not be consumed or distributed on the Exterior or the Public Space. ( )

**309. SMOKING AND VAPING.**

All persons shall observe the smoke free entrance notices and shall smoke or vape only in designated areas of the Exterior. Smoking and vaping is not allowed in the Interior. ( )

**310. FIRES, CANDLES, AND FLAMES.**

No fires, candles or other sources of open flame are permitted at the Idaho State Capitol. ( )

**311. POSTERS, PLACARDS, BANNERS, SIGNS, EQUIPMENT, TABLES, MATERIALS, AND DISPLAYS.**

**01. Electrical Cords.** Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. ( )

**02. Railings.** Items may not be placed on railings and persons may not sit or stand on railings. ( )

**03. Tossing or Dropping Items.** Items may not be tossed or dropped over railings or from one (1) level of the Idaho State Capitol or improvements at the Idaho State Capitol to another level or to the ground. ( )

**04. Ingress or Egress.** No item, including tables, chairs, exhibits, equipment, materials, and displays shall be located so as to block ingress or egress to any portion of the Idaho State Capitol, or to restrict the flow of individuals using the facility, or to restrict emergency egress or ingress. ( )

**05. Attaching, Affixing, Leaning or Propping Materials.** Posters, placards, banners, signs, and Displays, including any printed materials, shall not be affixed on any surface of the Idaho State Capitol or on any Exhibit or Commemorative Installation, post, railing, fence or landscaping, including trees. All posters, placards, banners, signs, and Displays must be free-standing or supported by individuals. Items may not be leaned or propped against any surface of the Idaho State Capitol or embedded into the ground including, but not limited to, placement of a stake, post or rod into the ground to support materials. ( )

**06. Materials Causing Damage to Surfaces.** Stages, risers, chairs, tables, sound equipment, props, materials, displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface on the Idaho State Capitol or any systems or utilities of the Idaho State Capitol including, but not limited to, fire suppression systems, storm drains, ventilation systems, and landscape watering systems. ( )

**07. Free Distribution of Literature and Printed Material.** All literature and printed material must be distributed at no charge. The party distributing literature and printed material shall ensure periodically and at the conclusion of its use of the Idaho State Capitol that such material is not discarded outside of designated trash receptacles. ( )

**08. Surface Markings.** Users shall not use any material to mark on any surface of the Idaho State Capitol including chalk, paint, pens, ink, or dye. ( )

**09. Capacity.** The number of users in the Interior is limited to the capacity designated by health and safety officials including, but not limited to, the state fire marshal, the division of building safety, and the department of health and welfare. ( )

**10. Moving Furniture and Items.** The public shall not move furnishings owned by the state of Idaho or placed by agents or employees of the state of Idaho at the Idaho State Capitol, including chairs, benches, tables, signs, art, memorials, statues, or Exhibits. ( )

**11. Sound Amplification.** Except for amplification provided by the Department under a Permit and use by Law Enforcement or Security Personnel or by state employees and officials under Subsection 315.01 of these

rules, sound amplification devices shall not be used in the Interior. ( )

**312. ITEMS SUBJECT TO SEARCH.**

To enhance security and public safety, Security Personnel and Law Enforcement may inspect: ( )

**01. Packages and Bags.** Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by law, including these rules. ( )

**02. Items.** Items brought to the Idaho State Capitol, if there is a reasonable suspicion that an item may be capable of injuring, damaging or harming persons or property at the Idaho State Capitol of disrupting the primary uses of the Idaho State Capitol in violation of law, including these rules. ( )

**313. PROHIBITED ITEMS.**

The following, as defined in title 18, chapter 33, Idaho Code, are not permitted at the Idaho State Capitol: bombs, destructive devices, shrapnel, weapons of mass destruction, biological weapons, and chemical weapons. Security Personnel or Law Enforcement may direct that any person at the Idaho State Capitol immediately remove from the Idaho State Capitol any club, bat, or other item that can be used in violation of law, including these rules, to injure, damage, or harm persons or property or to disrupt the primary uses of the Interior. ( )

**314. UTILITY SERVICE.**

The public may not use the utility services of the Idaho State Capitol other than restrooms and drinking fountains; provided, however, the Director may authorize limited use of electrical service for the duration of Public Use authorized by these rules. Utility services include, but are not limited to, electrical, sewage, water, heating, and geothermal services. The Director may terminate the use of utilities if such use interferes with the utility services of the Idaho State Capitol or the equipment or apparatus using utility service fails to comply with applicable rules or codes. ( )

**315. LAW ENFORCEMENT AND FACILITY EXIGENCY – REMOVAL FOR NON-COMPLIANCE.**

**01. Emergency or Threat.** In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, Law Enforcement, Security Personnel and state employees or officials may direct all persons off of or out of the Idaho State Capitol and delay or postpone any activity until the emergency or threat is abated. ( )

**02. Removal.** The Director, the Presiding Officer, or their designees are authorized to request that Law Enforcement remove or exclude any person from the Interior who engages in any of the following: ( )

**a.** Violation of law, including these rules, where such violation: ( )

**i.** Interferes with the primary uses of the Idaho State Capitol, injures persons or property, or is likely to injure persons or property, or, ( )

**ii.** Law Enforcement, Security Personnel, the Presiding Officer, or the Director or his designee has requested compliance with the applicable law, including provisions of these rules, and the person has refused to comply. ( )

**b.** Engaging in a riot, unlawful gathering or a gathering designed to impede the business of the state of Idaho in violation of Sections 18-6401 or 18-6404, Idaho Code. ( )

**316. COMPLIANCE WITH LAW.**

All use of the Idaho State Capitol shall comply with applicable law including, but not limited to, fire, health, and safety codes. ( )

**317. HEALTH, SAFETY AND MAINTENANCE OF STATE FACILITIES.**

**01. Clean Condition After Use.** Users shall leave the Idaho State Capitol in reasonably clean condition after use, including depositing all trash in designated receptacles. ( )

**02. Return of Items to Proper Location.** Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of use. ( )

**03. Public Health.** Persons may not excrete human waste at the Idaho State Capitol except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine. ( )

**04. Fireworks.** Persons may not possess or use fireworks at the Idaho State Capitol. ( )

**05. Attire.** Persons in the Interior shall be fully clothed. Fully clothed means wearing shoes and one (1) or more garments extending from the wearer's shoulders to the wearer's legs. ( )

**318. REMOVAL OF ITEMS.**

All items brought to the Idaho State Capitol by the public shall be removed at the conclusion of the person's use of the Idaho State Capitol. Unless items are subject to report and transfer to the state treasurer as unclaimed property pursuant to Idaho law, the Director may authorize disposal of items left at the Idaho State Capitol. ( )

**319. -- 399. (RESERVED)**

**400. PERMITS.**

**01. Use Without a Permit.** A Permit grants a reservation providing priority for use of the area specified in the Permit as set forth in Subsection 200.04 of these rules. Applicants desiring to obtain a Permit for use of the Exterior or the Public Space outside of the Permit areas, hours or duration or who have not submitted an application within the application period may use the Exterior or the Public Space, subject to the provisions of these rules, on a first-come, first used basis. Permits will be issued to groups of two (2) or more people. ( )

**02. Permit Areas, Hours and Duration, and Number of Participants.** ( )

**a.** The Director will consider and grant Permits only for: ( )

**i.** Public Use of the Jefferson Street Steps; and ( )

**ii.** Public Use of the Public Space on the second floor rotunda. ( )

**b.** The Director will issue Permits for the following periods: ( )

**i.** Reserving use of the Jefferson Street Steps only for the period between the hours of 7 a.m. and 6 p.m.; and ( )

**ii.** Reserving the Public Space on the second floor rotunda during the hours of use in Section 302 of these rules. ( )

**c.** The duration of a Permit for the Jefferson Street Steps will not exceed four (4) consecutive hours. The duration of a Permit for the Public Space will not exceed eight (8) consecutive hours. ( )

**d.** The Director will issue a Permit only for Public Use involving two (2) or more persons. ( )

**03. Application Period.** Permit applications must be received and complete at least two (2) State Business Days prior to the requested date and time period of the Permit. The Department will not accept applications submitted more than six (6) months prior to the requested date of the Permit. ( )

**04. Validity.** Permits are valid only for the dates, times, and locations specified on the Permit as approved by the Director. ( )

**05. Distribution.** Permits shall be granted by the Director on a first-come, first-served basis, subject to Subsection 200.03 of these rules. Only one (1) Permit will be granted for the Jefferson Street Steps or the Public Space during any period of time. ( )

**06. Application Requirements.** Applications for a Permit shall be in writing on a form prescribed by the Director and available at the office of the Division of Public Works and the Department's [website](#). The Director will only process applications that are complete and signed by the individual making a request or an authorized representative of the entity or organization making the request. The Director may make reasonable inquiry to confirm the accuracy of the application and the authority of the party signing the application. ( )

**07. Conditions.** The Director may impose reasonable conditions on the use of the Idaho State Capitol in the Permit for the purpose of protecting persons and property. ( )

**08. Transferability.** Permits are non-transferable. ( )

**401. APPROVALS AND DENIALS OF A PERMIT APPLICATION.**

**01. Period for Approval or Denial.** The Department will approve or deny a complete application within two (2) State Business Days of the submission of the application. ( )

**02. Basis for Denial.** Permits may be denied for one (1) or more of the following: ( )

**a.** A Permit has been granted for all or part of the requested location during all or part of the requested time period. ( )

**b.** A public entity or official will be using all or part of the requested location during all or part of the requested time period. ( )

**c.** The requested use would violate any provision of these rules or applicable law. ( )

**d.** These rules do not authorize the use for the location or times requested or do not authorize the issuance of a Permit for the location requested. ( )

**e.** The Permit application is incomplete, contains a material falsehood, or contains a material misrepresentation. ( )

**f.** The Permit applicant has not certified that the applicant will comply with these rules or applicable law. ( )

**g.** The party signing the application is not legally competent to bind themselves or the organization or entity submitting the application. ( )

**h.** The individual, organization or entity submitting the application: ( )

**i.** Failed to pay costs or damages arising from an earlier use of any state facility; ( )

**ii.** Made a material misrepresentation regarding the nature or scope of the use on a prior Permit application; ( )

**iii.** Violated the terms of prior Permits issued to the individual, organization or entity; or ( )

**iv.** Violated any applicable law in the course of previous Public Use of state of Idaho facilities. ( )

**i.** The requested use would cause a clear and present danger to the orderly processes of state of Idaho government or to the use of the Idaho State Capitol due to advocacy of: ( )



- i. The violent overthrow of the government of the United States, the state of Idaho, or any political subdivision thereof; ( )
- ii. The willful damage or destruction, or seizure and subversion of public property; ( )
- iii. The forcible disruption or impairment of or interference with the regularly scheduled functions of the state of Idaho; ( )
- iv. The physical harm, coercion, intimidation or other invasions of the lawful rights of public officials or the public; or ( )
- v. Other disorders of a violent nature. ( )

**402. REVOCATION OF A PERMIT.**

A Permit may be revoked by the Director for the violation of any term or condition of the Permit or the violation of law including, but not limited to, the violation of any provision of these rules. ( )

**403. APPEALS.**

**01. Time for Appeal.** The individual or the organization or entity submitting an application may request that the Department initiate a contested case within the period set forth below. The Department will not initiate a contested case after the following periods: ( )

- a. Seven (7) State Business Days following the written denial of an application for a Permit; ( )
- b. Seven (7) State Business Days following the revocation of a Permit; and ( )
- c. Seven (7) State Business Days following the date the Department was required to approve or deny the application for a Permit pursuant to Section 401 of these rules. ( )

**02. Requesting an Appeal.** The individual or the organization or entity submitting an application shall request an appeal in writing, with a physical copy delivered to the Director at the street address set forth on the Department's [website](#) containing the following: ( )

- a. The name, address, and contact information of the appellant; ( )
- b. A concise statement of the reason the appeal should be granted; ( )
- c. Whether the appellant requests informal disposition to expedite the contested case; and ( )
- d. A description of the Permit sought. ( )

**03. Informal Disposition.** If an appellant requests informal disposition, the Director will accept written evidence submitted within five (5) State Business Days of the appeal request, or as otherwise agreed by the Director and the appellant. The Director will issue a final written order affirming, reversing or modifying the denial or revocation of the Permit. ( )

**04. Contested Cases.** If an appellant does not request informal disposition, the Director will schedule a hearing and proceed as set forth in chapter 52, title 67, Idaho Code. Contested cases will be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ( )

**05. Judicial Review.** Judicial review of orders issued in an appeal is provided as set forth in chapter 52, title 67, Idaho Code. ( )

**404. -- 499. (RESERVED)**

**500. LIABILITY.**

**01. State Liability.** Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, chapter 9, title 6, Idaho Code. ( )

**02. No Endorsement.** The grant of a Permit and any action or inaction of the Department does not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in Public Use of the Idaho State Capitol. ( )

**501. -- 999. (RESERVED)**

**IDAPA 38 – DEPARTMENT OF ADMINISTRATION**  
**38.04.09 – RULES GOVERNING USE OF THE CHINDEN OFFICE COMPLEX**  
**DOCKET NO. 38-0409-2201 (ZBR CHAPTER REPEAL)**  
**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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 67-5709, 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.

The Department of Administration has performed a critical and comprehensive review of the statutes and existing rule chapter. As a result of the review, the Department has made the determination to repeal this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#). Necessary provisions have been retained and included in companion docket no. 38-0406-2201 published in this bulletin.

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 September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, page 291](#).

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Bailey, (208) 332-1825.

DATED this October 7, 2022

Steve Bailey  
Deputy Director  
Department of Administration  
650 W. State Street  
Room 100  
Boise, Idaho 83720  
[steven.bailey@adm.idaho.gov](mailto:steven.bailey@adm.idaho.gov)  
(208) 332-1825

**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 67-5709, 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 September 21, 2022.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The Department of Administration is performing a critical and comprehensive review of the statutes and existing rules chapter. As a result of the review, the Department has made the determination to repeal this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#). Necessary provisions have been retained and included in companion docket no. 38-0406-2201 published in this bulletin.

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

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the repeal of this chapter will result in the reduction of regulatory burden.

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Bailey, (208) 332-1825.

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 September 28, 2022.

DATED this August 5, 2022.

**IDAPA 38.04.09 IS BEING REPEALED IN ITS ENTIRETY**

**IDAPA 38 – DEPARTMENT OF ADMINISTRATION**  
**38.05.01 – RULES OF THE DIVISION OF PURCHASING**  
**DOCKET NO. 38-0501-2201 (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 2023 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**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 67-9204, 67-9205, 67-9206, 67-9215, 67-9219, 67-9226, 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.

The Department of Administration has performed a critical and comprehensive review of the statutes and existing rule chapter. The Department has rewritten this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#).

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 September 7, 2022, Idaho Administrative Bulletin, [Vol. 22-9, pages 292-309](#).

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Steve Bailey, (208) 332-1825.

DATED this October 7, 2022.

Steve Bailey  
Deputy Director  
Department of Administration  
650 W. State Street  
Room 100  
Boise, Idaho 83720  
[steven.bailey@adm.idaho.gov](mailto:steven.bailey@adm.idaho.gov)  
(208) 332-1825

**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 67-9204, 67-9205, 67-9206, 67-9215, 67-9219, 67-9226, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

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

The Department of Administration will perform a critical and comprehensive review of the statutes and existing rules chapter. The Department will rewrite this chapter under the premise of zero-based rulemaking, as per [Executive Order 2020-01: Zero-Based Regulation](#).

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

**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: NA

**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 July 6, 2022, Idaho Administrative Bulletin, [volume 22-7, pages 247-248](#).

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Steve Bailey at (208) 332-1825.

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 September 28, 2022.

DATED this August 5, 2022.

**THE FOLLOWING IS THE TEXT OF ZBR DOCKET NO. 38-0501-2201**

**38.05.01 – RULES OF THE DIVISION OF PURCHASING**

**SUBCHAPTER A – GENERAL PROVISIONS**

**000. LEGAL AUTHORITY.**

The following rules are promulgated in accordance with Section 67-9205(11), Idaho Code, by the administrator of the division of purchasing. ( )

**001. SCOPE.**

These rules govern any other state agency acquiring property under these rules or through delegated authority. These rules also govern the contested case hearing process. ( )

**002. CONSTRUCTION.**

“Include,” “Includes,” and “Including” are terms of enlargement and not of limitation or exclusive enumeration. Unless otherwise specified in a rule, lists and examples are illustrative and not exhaustive. ( )

**003. -- 010. (RESERVED)**

**011. DEFINITIONS.**

Unless defined otherwise in these rules, the definitions set forth in Section 67-9203, Idaho Code, apply to this chapter. ( )

**01. Alternate.** Property or services that are not at least a functional equal in features, performance or use of the brand, model or specification designated as the standard. ( )

**02. Brand Name or Equal Specification.** A specification that uses a brand name to describe the standard of quality, performance or other characteristics being solicited and that invites the submission of equivalent property. ( )

**03. Brand Name Specification.** A specification calling for property by manufacturers’ names or catalogue numbers. ( )

**04. Buyer.** An employee of the division of purchasing designated as a buyer, contract-administrator, purchasing agent, contracting officer, or similar designation by the administrator, including, where appropriate, the administrator and other management personnel. The term also includes authorized employee(s) of a purchasing authority. ( )

**05. Competitive Negotiation.** Procedure by which the buyer negotiates with one (1) or more responsive offerors in accordance with the provisions of an invitation to negotiate. ( )

**06. Consultant Services.** Work, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis or advice in formulating or implementing programs or services or improvements in programs or services, including such areas as management, personnel, finance, accounting and planning. The consultant’s services, opinions or recommendations will be performed according to the consultant’s methods without being subject to the control of the agency except as to the result of the work. ( )

**07. Contract Administration.** Actions taken related to changes to contracts, including amendments, renewals, and extensions; receipt, review and retaining of the contract and contract-related documents; and exercise of remedies. ( )

**08. Contract Management.** Actions taken to ensure that both the agency and contractor comply with the requirements of the contract. Includes regular monitoring of the contractor’s performance, evaluation of deliverables, invoice review, payment approval, progress tracking, regular status meetings, and management of state-owned property and other resources used in contract performance management. ( )

09. **Division.** The division of purchasing of the department of administration as established by Section 67-9204, Idaho Code. ( )
10. **Document.** When used in these rules, may include electronic documents. ( )
11. **E-procurement.** Use of the division’s electronic procurement system. ( )
12. **Equal.** Property that meets or exceeds the quality, performance and use of the brand, model or specifications in the informal or formal solicitation. ( )
13. **Formal Sealed Procedure.** Procedure by which the buyer solicits sealed bids or competitive sealed proposals by means of a formal solicitation. ( )
14. **Formal Solicitation.** An invitation to bid, request for proposal, or invitation to negotiate. ( )
15. **Informal Solicitation.** Procedure by which the buyer solicits informal competitive quotes by means of a request for quote. ( )
16. **Invitation to Bid or ITB.** All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids. ( )
17. **Invitation to Negotiate or ITN.** All documents, whether attached or incorporated by reference, utilized for soliciting proposals for a competitive negotiation. ( )
18. **Offeror.** A vendor who has submitted a response to a request for proposals or invitation to negotiate for property to be acquired by the state. ( )
19. **Professional Services.** Work rendered by a contractor whose occupation is the rendering of such services and who has a professional knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, including but not limited to accounting and auditing, legal, medical, nursing, education, actuarial, veterinarian, information technology and research. The knowledge is founded upon extensive and specialized intellectual training that enables a particular service to be rendered. The word “professional” implies professed attainments in special knowledge as distinguished from mere skills. ( )
20. **Proposal.** A written response including pricing information to a request for proposals that describes the solution or means of providing the property requested and which proposal is considered an offer to perform a contract in full response to the request for proposals. ( )
21. **Purchase.** The act of acquiring or procuring property for state use or the result of an acquisition. ( )
22. **Purchase Order.** Notification to the contractor to provide the stated property under the terms and conditions set forth in the purchase order. It may include the form of the state’s acceptance of a vendor’s quote, proposal or bid. See also definition of contract. ( )
23. **Purchasing Authority.** The division or an agency exercising authority based on a delegation of authority by the administrator to an individual or an agency; or as otherwise provided under these rules to engage in the conduct of purchasing. ( )
24. **Quote.** An offer to supply property in response to a request for quote and generally used for informal solicitation procedures. ( )
25. **Request for Proposals or RFP.** Includes all documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals as a component of the formal sealed procedure and is generally utilized in the acquisition of services or other complex purchases. ( )



- 26. Request for Quote.** The document, form or method generally used for purchases solicited in accordance with informal solicitation procedures. ( )
- 27. Requisition.** A standard state or agency specific form that serves as a purchasing request and that requests that the purchasing authority acquire the property. ( )
- 28. Sealed.** A bid or proposal physically or electronically sealed and submitted in accordance with requirements of a formal solicitation. ( )
- 29. Sealed Procedure Limit.** That dollar amount, as established by these rules, above which the formal sealed procedure will be used. The amount may be lowered by the administrator to maintain full disclosure or competitive purchasing or otherwise achieve overall state efficiency and economy. ( )
- 30. Small Purchase.** An acquisition that costs less than the sealed procedure limit. ( )
- 31. Signature.** A manual signature or an electronic signature, as defined in Section 28-50-102, Idaho Code, of an individual authorized to bind a person or entity. ( )
- 32. State.** The state of Idaho including each agency unless the context implies other states of the United States. ( )
- 33. Telecommunications.** All present and future forms of hardware, software or services used or required for transmitting voice, data, video or images. ( )
- 34. Total Cost.** The acquisition cost of property, including all components, options, and add-ons available under the contract, related services, and, in the case of ongoing services, the cost of the full term of the contract, including all authorized renewals. Unless a different total term is provided in the contract, the term used for purposes of total cost is five (5) years. ( )
- 35. Written.** When used in these rules, may include an electronic writing and communication. ( )

## **SUBCHAPTER B – RULES GOVERNING PURCHASING**

### **012. PRESERVATION OF RECORDS.**

Records of a purchasing authority, which are created or held pursuant to these rules, may be kept in such format as prescribed by the purchasing authority responsible for record retention; and otherwise in accordance with record preservation and retention policies established by the agency designated by the legislature for such purpose. ( )

### **013. -- 020. (RESERVED)**

### **021. DELEGATION OF AUTHORITY OF ADMINISTRATOR.**

The division's purchases on behalf of another agency are as the agent for such agency. The division administers the acquisition of all property for agencies except those specifically exempted from the state procurement act, title 67, chapter 92, Idaho Code. The administrator may delegate in writing such authority to division employees, an agency or employees of an agency. Such delegations remain in effect unless modified or until revoked in writing. All delegations must be given in writing prior to the acquisition of the property. Designees shall make purchases according to these purchasing rules, the policies developed by the division, and the conditions established by the administrator in the delegation. Delegations are subject to periodic reporting and review as directed by the administrator. ( )

**01. Manner of Submission.** Request for delegated purchasing authority must be submitted in writing, on a form and in a manner established by the administrator. ( )

**02. Policy.** The administrator's delegated purchasing authority policy is applicable to all designees; and may place additional conditions on the agency or individual delegated authority. ( )

**03. Failure to Comply.** A designee's failure to comply with the policy, the conditions included in the written authorization provided by the administrator, or the instructions of the administrator regarding activities delegated pursuant to this rule may result in immediate rescission of delegated authority, increased monitoring, reduced authority level, additional training, or other action deemed appropriate by the administrator. ( )

**022. -- 033. (RESERVED)**

**034. PUBLIC NOTICE.**

Notice of informal and formal solicitations are posted electronically unless the administrator exempts the acquisition from e-procurement. Notice of sole source acquisitions are posted electronically, and otherwise in accordance with Section 67-9221, Idaho Code. ( )

**035. -- 040. (RESERVED)**

**041. ACQUISITION PROCEDURES.**

Except as otherwise provided in statute or these rules, the acquisition of property shall be by competitive solicitation. Acquisition requirements shall not be artificially divided to avoid bid statutes, rules, or policies. The procedure followed for acquisitions shall be as follows: ( )

**01. Small Purchases.** ( )

**a.** Acquisitions of the following property are small purchases: ( )

i. Services with a total cost less than twenty-five thousand dollars (\$25,000) ( )

ii. Software, regardless of the delivery method (e.g. on-premise, cloud, software as a service, etc.), with a total cost less than fifteen thousand dollars (\$15,000); ( )

iii. Property, excluding services, with a total cost less than fifteen thousand dollars (\$15,000); ( )

iv. A mix of property including services and other property, with a total cost less than fifteen thousand dollars (\$15,000). ( )

**b.** Small purchases do not require acquisition through competitive solicitation. Agencies must comply with the division's small purchase policy. Property available under single agency or open contracts shall be purchased under such contracts and are not a small purchase under this rule unless otherwise authorized by the administrator. ( )

**02. Informal Purchases.** ( )

**a.** Acquisition of property with a total cost exceeding the dollar limits established in this rule for a small purchase and less than the formal sealed procedure limit are informal purchases. ( )

**b.** Informal purchases may be made using: ( )

i. An informal solicitation issued through e-procurement, unless exempted by the administrator; or ( )

ii. The formal sealed procedure, when the purchasing authority makes a written determination that using a formal solicitation is in the best interest of the state, including where selection based solely on cost is not appropriate. ( )

**c.** Agencies procuring property under this rule shall maintain a purchasing file containing: ( )

i. The informal or formal solicitation document posted and quotes received. If the acquisition was not publicly posted, the agency shall include a statement describing the justification for determining that posting was impractical or impossible, along with the administrator's authorization. ( )

ii. If not using e-procurement, the agency shall document the quotes received (or its attempt to obtain quotes) from at least three (3) vendors having a significant Idaho economic presence as defined in Section 67-2349, Idaho Code. ( )

**03. Formal Sealed Procedure.** ( )

a. The sealed procedure limit is one hundred fifty thousand dollars (\$150,000). ( )

b. Purchases of property in excess of the sealed procedure limit are made using the formal sealed procedure, unless exempted by these rules or the administrator. ( )

**042. EXCEPTIONS TO COMPETITION REQUIRING ADMINISTRATOR APPROVAL.**

The administrator may exempt the following purchases from the requirement for competitive solicitation by issuing a written determination to the purchasing authority. ( )

**01. Emergency Purchases.** An emergency purchase is a purchase required to address an emergency condition, which is a situation that creates a threat to public health, welfare, or safety, such as may arise from floods, epidemics, riots, equipment failure, or similar circumstances. The existence of such condition must create an immediate and serious need for property that cannot be met through normal acquisition methods. The buyer must send a written explanation stating the emergency condition and the basis for the supplier selection, if applicable, to the administrator for review and written approval that the purchase be undertaken as an emergency purchase. Emergency purchases are limited to only that property required to address the emergency. The director or administrator may delegate authority in writing to an agency or purchasing authority to make emergency purchases and may impose conditions in the delegation. ( )

**02. Sole Source Purchases.** Sole source purchases are authorized only if the required property is reasonably available from a single supplier. A requirement for a proprietary property does not justify a sole source purchase if there is more than one (1) potential supplier that can provide the required property. In cases of reasonable doubt, competition should be solicited. The buyer must send a written request to the administrator justifying the purchase and the basis to conclude that no other supplier is reasonably available. Sole source purchases require written approval of the administrator. The administrator may condition an approval. ( )

**03. Rehabilitation Agency Acquisitions.** Acquisitions of property that is provided by non-profit corporations and public agencies operating rehabilitation facilities serving the handicapped and disadvantaged and that is offered for sale at fair market price as determined by the administrator in accordance with these rules. The buyer must submit a written request to the administrator to purchase from a rehabilitation agency and a written approval from the administrator. The purchase must comply with the division's policy for rehabilitation agency acquisitions. ( )

**04. Purchases from General Services Administration Federal Supply Contractors.** Acquisitions of property may be made from General Services Administration federal supply contractors without the use of competitive bid upon written approval of the administrator. The administrator shall determine whether the price and terms and conditions of acquisition is advantageous to the state. The administrator shall commemorate the determination in a written statement that shall be incorporated in the applicable file. ( )

**05. Exempt Purchases.** The administrator may, by written policy, exempt from the formal sealed procedure or the requirement for competitive solicitation that property for which bidding is impractical, disadvantageous or unreasonable under the circumstances. ( )

a. Examples include: ( )

i. Special market conditions; ( )

ii. Property requiring special contracting procedures due to uniqueness; ( )

iii. Legal advertising, publication or placement of advertisements by state agency personnel directly

- with media sources; ( )
- iv. Property for which competitive solicitation procedures are impractical; ( )
  - v. Used property; ( )
  - vi. Ongoing maintenance, upgrades, support or additional licenses for software or other information technology solutions, including a change in the manner of solution delivery; which software or solution was originally acquired in compliance with the purchasing laws in effect at the time of acquisition; or ( )
  - vii. Acquisition of property for direct resale. ( )
- b.** Such policy shall describe the property exempted, the duration of the exemption, and any other requirements or circumstances appropriate to the situation. ( )

**043. EXCEPTIONS TO COMPETITION NOT REQUIRING APPROVAL.**

Unless the administrator makes a written determination to the contrary, property meeting the following criteria need not be purchased by competitive solicitation. ( )

**01. Reverse Auction.** Purchases through reverse public auctions as authorized by Section 67-9221, Idaho Code. ( )

**02. Federal Government Acquisitions.** Acquisitions from the United State of America or any agency thereof. ( )

**03. Public Agency Acquisitions.** Acquisitions from other public agencies as defined in Section 67-2327, Idaho Code, and authorized by Section 67-2332, Idaho Code. ( )

**04. Idaho Correctional Industries.** Purchases of property marketed directly by Idaho Correctional Industries in accordance with Section 20-245, Idaho Code. ( )

**05. Open Contracts.** Except as provided in these rules or exempted by the administrator, property available under existing open contracts shall be purchased under such contracts in accordance with the provisions or requirements for use thereof. ( )

**06. Professional or Consultant Services.** The acquisition of professional or consultant services for one-time projects costing less than the sealed procedure limit and lasting less than one (1) year in duration. ( )

**07. Small Purchases.** The acquisition of property meeting the criteria in sub-section 041.01 of these rules; provided, however, that acquisitions cannot be artificially divided to meet the small purchase criteria. ( )

**044. -- 050. (RESERVED)**

**051. CONTENT OF FORMAL SOLICITATIONS.**

The following shall be included in formal solicitations: ( )

**01. Submission Information.** Information regarding the applicable closing date, time and location. ( )

**02. Specifications.** Specifications developed in accordance with Section 111 of these rules. For an ITN, specifications may be limited to those determined by the purchasing authority to be adequate to inform interested vendors of the desired outcome. ( )

**03. Contract Terms.** Terms and conditions applicable to the contract, subject to the provisions of Section 112 of these rules. ( )

**04. Evaluation and Award Criteria.** Any evaluation criteria to be used to determine property

acceptability and identification of the lowest responsive and responsible offer. For an ITN, also a summary of evaluation criteria to classify proposals and determine the competitive threshold for negotiations. ( )

**05. Trade-In Property.** If trade-in property is to be included, a description of the property and location where it may be inspected. ( )

**06. Incorporation by Reference.** A brief description of any documents incorporated by reference that specifies where such documents can be obtained. ( )

**07. Pre-Proposal or Pre-Bid Conference.** The date, time and location of the conference. ( )

**08. Process.** A description of the process for the formal solicitation. ( )

**052. CHANGES TO FORMAL SOLICITATIONS.**

A formal solicitation may be changed by the buyer through issuance of an amendment, provided the change is issued in writing prior to the formal solicitation closing date and is made available to all vendors receiving the original formal solicitation. Any material information given or provided to a prospective vendor with regard to a formal solicitation shall be made available in writing by the buyer to all vendors receiving the original formal solicitation. Oral interpretations of specifications or contract terms and conditions shall not be binding on the state unless confirmed in writing by the buyer prior to the date of the closing. Changes to the formal solicitation shall be identified as such and shall require that the vendor acknowledge receipt of all amendments issued. The right is reserved to waive any informality. ( )

**053. -- 060. (RESERVED)**

**061. FORM OF SUBMISSION FOR FORMAL SOLICITATIONS.**

**01. Manual Submissions.** Unless otherwise provided in these rules and in addition to any specific requirements set forth in the formal solicitation, bids or proposals submitted manually must be made on the form provided, which form must be properly completed and contain a signature to receive consideration. All changes or erasures on manual submissions shall be initialed in ink. Unsigned or improperly submitted bids or proposals will be rejected. The purchasing authority assumes no responsibility for failure of the United States Postal Service, any private or public delivery service, or any computer or other equipment to deliver all or a portion of the bid or proposal at the time or to the location required by the formal solicitation. ( )

**02. Electronic Submissions.** Unless otherwise provided in these rules and in addition to any specific requirements set forth in the formal solicitation, bids or proposals submitted electronically must be submitted in accordance with and meet all applicable requirements of these rules and contain a signature. Submission of a bid or proposal through e-procurement shall constitute a signature. The purchasing authority assumes no responsibility for failure of any electronic submission process, including any computer or other equipment to deliver all or a portion of the bid or proposal at the time or to the location required by the formal solicitation. ( )

**062. -- 069. (RESERVED)**

**070. PRE-PROPOSAL CONFERENCE.**

A pre-proposal conference for vendors must be conducted by the purchasing authority for all RFPs and ITNs. The purchasing authority may provide an opportunity for a verbal question and answer period, however, only written questions and answers posted through e-procurement as an amendment to the formal solicitation, have force or effect in the procurement. ( )

**071. PRE-OPENING WITHDRAWAL OR MODIFICATION.**

Bids or proposals submitted manually may be withdrawn or modified prior to closing of the formal solicitation only as follows. ( )

**01.** By written communication containing a signature. ( )

**02.** In person upon presentation of satisfactory evidence establishing the individual's authority to act on

behalf of the submitting vendor. ( )

**03.** Any withdrawing or modifying communication, must clearly identify the formal solicitation and should be worded so as not to reveal the amount of the original bid or proposal. ( )

**072. LATE BIDS/PROPOSALS, LATE WITHDRAWALS AND LATE MODIFICATIONS.**

Any bid or proposal, withdrawal, or modification received after the time and date set for closing at the place designated in the formal solicitation is late. No late bid or proposal, late modification or late withdrawal will be considered. All late bids and proposals, will be returned to the submitting vendor. Time of receipt will be determined by the official time stamp or receipt mechanism located at the designated place for receipt of responses. ( )

**073. RECEIPT, OPENING, AND RECORDING OF BIDS AND PROPOSALS.**

Upon receipt, all bids, proposals, and modifications properly marked and identified are time stamped, but not opened. They shall be stored in a secure place until the time specified for opening. Time stamping and storage may be through electronic means. Bids and proposals shall be opened publicly at the date and time specified in the formal solicitation. Opening of proposals shall identify only the names of the offerors unless otherwise stated in the formal solicitation. Bid and proposal openings may be electronic virtual openings. When no manual bids or proposals are received, retaining the e-procurement audit record shall be opening in public view under section 67-9209, Idaho Code. ( )

**074. MISTAKES.**

The following procedures are established relative to claims of a mistake. ( )

**01. Mistakes in Submission.** If a mistake is attributable to an error in judgment, the submission may not be corrected. Correction or withdrawal by reason of an inadvertent, nonjudgmental mistake is permissible, but at the discretion of the administrator and to the extent it is not contrary to the interest of the state or the fair treatment of other submitting vendors. ( )

**02. Mistakes Discovered Before Opening.** Mistakes discovered by a vendor prior to closing may be corrected by such vendor by submitting a timely modification or withdrawing the original submission and submitting a corrected submission to the purchasing authority before the closing. Vendors who discover a mistake after closing, but prior to opening, may withdraw the submission by a written notification containing a signature to the purchasing authority if such notification is received by the purchasing authority prior to opening. ( )

**03. Mistakes Discovered After Opening But Before Award.** This subsection sets forth procedures to be applied in three (3) situations described below in which mistakes are discovered after opening but before award. ( )

**a. Minor Informalities.** Minor informalities are matters of form rather than substance evident from the bid or proposal document, or insignificant mistakes that can be waived or corrected without prejudice to other submitting vendors, that is, the effect of the mistake on price, quantity, quality, delivery or contractual conditions is not significant. The buyer may waive such informalities. Examples include the failure of a submitting vendor to: ( )

i. Return the required number of signed submissions. ( )

ii. Provide a signature, but only if it is clear from the submission that the submitting vendor intended to be bound by its terms. ( )

iii. Acknowledge the receipt of an amendment, but only if: ( )

(1) It is clear from the submission that the submitting vendor received the amendment and intended to be bound by its terms; or ( )

(2) The amendment involved had a negligible effect on price, quantity, quality or delivery. ( )

**b. Mistakes Where Intended Submission is Evident.** If the mistake and the intended submission are clearly evident on the face of the document, the submission shall be corrected to the intended submission and may not

be withdrawn. Examples of mistakes that may be clearly evident on the face of the document are typographical errors, errors in extending unit prices (unit prices will always govern in event of conflict with extension), transposition errors and arithmetical errors. ( )

c. Mistakes Where Intended Submission is not Evident. A vendor may be permitted to withdraw a low bid if: ( )

i. A mistake is clearly evident on the face of the submission document but the intended submission is not similarly evident; or ( )

ii. The vendor submits timely proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made. ( )

**04. Mistakes Discovered After Award.** Mistakes shall not be corrected after award of the contract. ( )

**05. Written Approval or Denial Required.** In the event of a mistake discovered after the opening date, the administrator shall approve or deny, in writing, a request to correct or withdraw a submission. ( )

**075. -- 080. (RESERVED)**

**081. EVALUATION AND AWARD.**

**01. General.** The contract is to be awarded to the lowest responsible and responsive bidder or offeror (or for requests for quotes, vendor submitting a quote). The formal or informal solicitation shall set forth the requirements and criteria that will be used to make the lowest responsive and responsible determination. ( )

**02. Qualification.** All vendors submitting responses to informal or formal solicitations issued by the state must be qualified. All vendors are qualified unless disqualified as defined by Section 67-9217, Idaho Code. ( )

**03. Responsibility.** ( )

a. Nothing herein shall prevent the buyer from establishing additional responsibility standards for a particular purchase. Factors to be considered in determining whether a vendor is responsible include, whether the vendor has: ( )

i. Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, necessary to indicate capability to meet all contractual requirements; ( )

ii. A satisfactory record of integrity; ( )

iii. Qualified legally to contract with the purchasing authority and qualified to do business in the state of Idaho; ( )

iv. Unreasonably failed to supply any necessary information in connection with the inquiry concerning responsibility; ( )

v. Requisite experience; or ( )

vi. A satisfactory prior performance record, if applicable. ( )

b. **Information Pertaining to Responsibility.** A submitting vendor shall supply information requested by the buyer concerning its responsibility. If such submitting vendor fails to supply the requested information, the buyer shall base the determination of responsibility upon any available information or may find the submitting vendor nonresponsible if such failure is unreasonable. ( )

**c. Written Determination of Nonresponsibility Required.** If a submitting vendor that otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the buyer. ( )

**04. Extension of Time for Acceptance.** After opening, the buyer may request submitting vendors to extend the time during which their bids or proposals may be accepted. The reasons for requesting such extension shall be documented. ( )

**05. Partial Award.** A buyer shall have the discretion to award on an all or nothing basis or to accept any portion of a response to a formal or informal solicitation, excluding other portions of a response and other offers, unless the vendor stipulates all or nothing in its submission. ( )

**082. TIE RESPONSES.**

**01. Tie Responses -- Definition.** Tie responses are low responsive bids, proposals or quotes from responsible bidders or offerors (or for requests for quotes, from vendors submitting a quote) that are identical in price or score. Responsibility is determined based upon the standards of responsibility set forth in Section 081 of these rules. ( )

**02. Award.** Award shall not be made by drawing lots, except as set forth below, or by dividing business among tie responses. In the discretion of the buyer, award shall be made in any permissible manner that will resolve tie responses. Procedures that may be used to resolve tie responses include: ( )

**a.** If price is considered excessive or for another reason such responses are unsatisfactory, reject all responses, resolicit and seek a more favorable contract in the open market or enter into negotiations pursuant to Section 084 of these rules; ( )

**b.** Award to an Idaho resident or an Idaho domiciled vendor or for Idaho produced property where other tie response(s) are from out of state or to a vendor submitting a domestic property where other tie responses are for foreign (external to Idaho) manufactured or supplied property; ( )

**c.** Award to the vendor with the earliest delivery date. ( )

**03. Drawing Lots.** If no permissible method will be effective in resolving tie responses and a written determination is made so stating, award may be made by drawing lots or tossing a coin in the presence of witnesses if there are only two (2) tie responses. ( )

**083. PROPOSAL DISCUSSION WITH INDIVIDUAL OFFERORS.**

**01. Use of Discussions.** Discussions may be used in any type of formal solicitation when the solicitation provides for the possibility of discussions and the buyer determines that clarifications or revisions are required to achieve adequate competition. ( )

**02. Classifying Proposals.** For the purpose of conducting proposal discussions under this rule, proposals shall be initially classified as: ( )

**a.** Acceptable; ( )

**b.** Potentially acceptable if clarified or amended under this rule; or ( )

**c.** Unacceptable. ( )

**03. Conduct of Discussions.**

**a.** The buyer may conduct discussions under this rule with offerors whose proposals are classified as acceptable or potentially acceptable. ( )



**b.** The buyer may clarify any portion of a proposal with an offeror where the clarification does not materially alter the proposal. ( )

**c.** The buyer may conduct discussions with offerors to determine potential revisions to proposals or the formal solicitation. Offerors shall be accorded faith and equal treatment with respect to any opportunity for discussions and revisions of proposals. Auction techniques (revealing one offeror's price to another) and disclosure of any information derived from competing proposals are prohibited. Any oral clarification or change of a proposal shall be reduced to writing and signed by the offeror. ( )

**d.** If the buyer determines material changes to a formal solicitation or a proposal are necessary, the buyer shall establish a common time and date for submission of best and final offers. The buyer may conduct multiple rounds of best and final offers. If an offeror does not submit a notice of withdrawal or a best and final offer, the offeror's immediate previous offer is the offeror's best and final offer. ( )

**084. NEGOTIATIONS.**

In accordance with Section 67-9205(12), Idaho Code, the administrator may negotiate acquisitions as follows: ( )

**01. Use of Negotiations.** Negotiations may be used under these rules when the administrator determines in writing that negotiations may be in the best interest of the state including the following circumstances: ( )

**a.** Negotiations undertaken pursuant to an ITN, in accordance with the provisions of Section 094 of these rules. ( )

**b.** A competitive solicitation has been unsuccessful for reasons including that all offers are unreasonable, noncompetitive, or exceed available funds and the available time and circumstances do not permit the delay required for resolicitation; ( )

**c.** There has been inadequate competition; ( )

**d.** During the evaluation process it is determined that negotiations could secure advantageous terms or a reduced cost for the state; or ( )

**e.** During the evaluation process it is determined that all responsive offers exceed available funds and negotiations could modify the requirements of the formal solicitation to reduce the cost to available funds and avoid the extended time and expenditure of resources for a resolicitation. ( )

**02. Conditions of Use.** Negotiations, as permitted by Subsection 084.01.d., are subject to the following: ( )

**a.** The formal solicitation must specifically allow for the possibility of negotiation and describe, with as much specificity as possible, how negotiations may be conducted; ( )

**b.** Submissions shall be evaluated and ranked based on the evaluation criteria in the formal solicitation; ( )

**c.** Only those vendors whose proposals or bids are determined to be acceptable, in accordance with criteria for negotiations set forth in the formal solicitation, shall be candidates for negotiations; ( )

**d.** Negotiations shall be conducted first with the vendor that is the apparent low responsive and responsible bidder, unless concurrent negotiations are permissible, in accordance with the terms of the solicitation; ( )

**e.** If one (1) or more responsive offers does not exceed available funds, negotiations shall be against the requirements of and criteria contained in the formal solicitation and shall not materially alter those criteria or the specifications; ( )

**f.** Auction techniques (revealing one vendor's price to another) and disclosure of information derived from competing proposals is prohibited; ( )

**g.** Any clarifications or changes resulting from negotiations shall be documented in writing; ( )

**h.** If the parties to negotiations are unable to agree, the administrator shall formally terminate negotiations and may undertake negotiations with the next ranked vendor; and ( )

**i.** If negotiations as provided for in this rule fail to result in a contract, as determined by the administrator, the formal solicitation may be canceled and the administrator may negotiate in the best interest of the state with any qualified vendor. ( )

**03. Timing of Use.** If conducted as part of a small purchase or under the formal sealed procedure, negotiations are the last step in the procurement process. Use of oral interviews or best and final procedures, as provided for in a formal solicitation, must precede negotiations as provided for in this rule, unless the administrator makes a written determination that it is in the state's best interest to proceed directly to negotiations in lieu of first conducting oral interviews and the best and final procedures. ( )

**04. Termination of Negotiations.** The purchasing authority may terminate negotiations at any time, in the best interest of the state. ( )

**085. PRICE AGREEMENTS.**

The administrator may authorize and negotiate price agreements with vendors when such agreements are deemed in the best interest of the state. Price agreements shall provide for termination for any reason upon not more than thirty (30) days' written notice. Price agreements may be in the best interest of the state when: ( )

**01. Dollar Value.** The dollar value of individual procurements of property is less than the maximum dollar value of an exempt small purchase under Section 044 of these rules and multiple individual procurements are anticipated within a state of Idaho fiscal year; ( )

**02. Property.** The property may not be conducive to standard competitive bidding procedures; ( )

**03. Multiple Agreements.** There exists a need to establish multiple agreements with vendors supplying property that is similar in nature or function but is represented by different manufacturers or needed in multiple locations; or ( )

**04. Non-exclusive Agreements.** Non-exclusive agreements for periods not exceeding two (2) years are deemed necessary to establish consistent general business terms, including without limitation, price, use of catalogs, delivery or credit terms. ( )

**086. -- 090. (RESERVED)**

**091. ACCEPTANCE OR REJECTION OF BIDS AND PROPOSALS.**

Prior to the issuance of a contract, the administrator shall have the right to accept or reject all or any part of a bid or proposal or any and all bids or proposals when: ( )

**01. Best Interest.** It is in the best interests of the state of Idaho; ( )

**02. Does Not Meet Specifications.** The submission does not meet the minimum specifications; ( )

**03. Not Lowest Responsible Bid.** The submission is not the lowest responsible submission; ( )

**04. Bidder Is Not Responsible.** A finding is made based upon available evidence that a submitting vendor is not responsible or otherwise capable of currently meeting specifications or assurance of ability to fulfill contract performance; or ( )

**05. Deviations.** The item offered deviates to a major degree from the specifications, as determined by ( )

the administrator (minor deviations, as determined by the administrator, may be accepted as substantially meeting the requirements of the state of Idaho). Deviations will be considered major when such deviations appear to frustrate the competitive process or provides a submitting vendor an unfair advantage. ( )

**092. CANCELLATION OF INFORMAL OR FORMAL SOLICITATION.**

Prior to the issuance of a contract, the purchasing authority reserves the right to reject all bids, proposals or quotes or to cancel a formal or informal solicitation. In the event a formal or informal solicitation is cancelled, all submitting vendors will be notified. Examples of reasons for cancellation are identification of inadequate or ambiguous specifications, unexpected circumstances that require revised specifications, or determination that cancellation is in the best interest of the state. ( )

**093. NOTICE OF REJECTION.**

Bidders or offerors whose bids or proposals are rejected as non-responsive will be notified in writing of the reasons for such rejection. ( )

**094. COMPETITIVE NEGOTIATIONS.**

Notwithstanding the provisions of Section 041 of these rules applicable to the formal sealed procedure, the administrator may authorize the use of competitive negotiations when it is determined that the use of negotiations may enable the state to more effectively identify and refine potential solutions, especially where the business need is complex or requires innovation. ( )

**01. Written Authorization.** A competitive negotiation may only be used when a determination has been made that another type of formal solicitation would not be in the best interest of the state. Only the division may use competitive negotiation unless the administrator provides written authorization to a purchasing authority. ( )

**02. Form of Solicitation.** Proposals under this rule shall be solicited pursuant to an ITN. ( )

**03. Applicability of Other Rules.** An ITN shall be subject to the rules applicable to a request for proposals, except as otherwise provided. Modifications under Section 072 of these rules will be allowed after closing to the extent authorized within the ITN. Section 083 of these rules, proposal discussion with individual offerors, shall not apply to an ITN, except as specifically provided in the ITN. ( )

**04. Cost Proposals.** The buyer may request cost proposals at any time during the ITN process; and may elect to request cost proposals only from those offerors determined to be in the competitive range for award ("finalists"), in accordance with the instructions contained within the ITN. ( )

**05. Conduct of Negotiations.** Negotiations shall be conducted in accordance with the procedure outlined in the ITN, which may include multiple iterations of submissions and discussions in order to classify proposals; to allow for revisions to the solicitation proposal(s), including any requirements, terms, conditions or specifications; and to determine finalists. The negotiation process ends upon submission of the best and final offer(s) from the finalists, after which time vendors shall not be allowed to make further modifications to their proposal(s). ( )

**095. -- 100. (RESERVED)**

**101. LEASES.**

**01. Lease for Personal Property.** A lease for personal property may be entered into provided the lease is subject to the same requirements of competition that govern the purchase of property. Leases for periods exceeding one (1) year specifically require the approval of the administrator. ( )

**02. Lease Purchase Option.** Unless a specific exemption is granted by the administrator or unless otherwise exempt by these rules, a lease purchase option may be exercised only if the lease containing the purchase option was awarded using the competitive process. Before exercising such an option, the buyer shall meet all applicable requirements of Section 67-9222, Idaho Code, including providing notice of the exercise of option as a sole source or competitively bidding the property by soliciting bids for new or used property. ( )

**102. -- 110. (RESERVED)**

**111. SPECIFICATIONS -- POLICIES AND DEVELOPMENT.**

**01. Purpose.** Unless exempted by these rules or by the administrator, all informal and formal solicitations require specifications. Specifications set forth the characteristics of the property to be acquired. Specifications serve as the basis for obtaining property adequate and suitable for the using agency's needs in a cost effective manner, taking into account the costs of ownership and operation as well as initial acquisition costs. Specifications shall be drafted clearly to describe the agency's needs and to enable the vendors to determine and understand the agency's requirements. Specifications shall, as much as practical, be nonrestrictive to provide an equal basis for participation by an optimum number of vendors and to encourage competition. This information may be in the form of a description of the physical, functional or performance characteristics, a reference brand name or both. It may include a description of any required inspection, testing or preparation or delivery. Specifications may be incorporated by reference or contained in an attachment. ( )

**02. Use of Functional or Performance Descriptions.** Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the agency. To facilitate the use of such criteria, using agencies shall endeavor to include as a part of purchase requisitions their principal functional or performance needs. ( )

**03. Preference for Commercially Available Property.** Requirements shall be satisfied by standard commercial property whenever practicable. ( )

**04. Brand Name or Equal Specification.** ( )

**a.** A brand name or equal specifications may be used when the buyer determines that such a specification is in the agency's best interest. ( )

**b.** A brand name or equal specification shall seek to designate as many different brands as are practicable as "or equal" and shall state that property substantially equivalent to those designated will be considered for award. ( )

**c.** Unless the buyer authorized to finally approve specifications determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design and functional or performance characteristics required. ( )

**d.** Where a brand name or equal specification is used, the document shall contain explanatory language that the use of a brand name is for the purpose of designating the standard of quality, performance, and characteristics desired and is not intended to restrict competition. ( )

**05. Brand Name Specification.** ( )

**a.** Since use of a brand name specification is restrictive, such a specification may only be used when the administrator or designee makes a written determination. Such determination may be in any form, such as a purchase evaluation or a statement of single manufacturer justification. The written statement must state specific reasons for use of the brand name specification. ( )

**b.** The administrator shall seek to identify sources from which the designated brand name property can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one (1) source can supply the requirement, the acquisition shall be made under Section 67-9221, Idaho Code. ( )

**06. Specification of Alternates May Be Included.** A specification may provide alternate descriptions of property where two (2) or more design, functional or performance criteria will satisfactorily meet the agency's requirements. ( )

**112. CONTRACT TERMS - POLICIES AND LIMITATIONS.**

**01. Prohibited Terms.** Purchasing authorities do not have the authority to bind the state of Idaho or an agency to the following terms. If a contract contains such a term, the term shall be void pursuant to Section 67-9213, Idaho Code. ( )

**a.** Terms waiving the sovereign immunity of the state of Idaho. ( )

**b.** Terms subjecting the state of Idaho or its agencies to the jurisdiction of the courts of other states. ( )

**c.** Terms limiting the time in which the state of Idaho or its agencies may bring a legal claim under the contract to a period shorter than that provided in Idaho law. ( )

**d.** Terms imposing a payment obligation, including a rate of interest for late payments, less favorable than the obligations set forth in Section 67-2302, Idaho Code. ( )

**02. Terms Requiring Special Consideration.** ( )

**a.** Unless specifically authorized by the Idaho legislature, terms requiring an agency or the state of Idaho indemnify a vendor shall be subject to the provisions of Section 59-1015, Idaho Code, and require an appropriation by the Idaho legislature. Indemnification terms not specifically authorized by the Idaho legislature or subject to appropriation shall be void pursuant to Section 67-9213, Idaho Code, and Section 59-1016, Idaho Code. ( )

**b.** Purchasing authorities shall consult with legal counsel prior to accepting terms submitting the contract to arbitration or waiving the state of Idaho's right to a jury trial. ( )

**113. CONTRACT OVERSIGHT.**

**01. Contract Management and Contract Administration.** ( )

**a.** Agencies which issue their own contracts pursuant to their delegated authority (or as otherwise exempt from the requirements of these rules) will be responsible for all aspects of contract management and contract administration, as those terms are defined in Section 011 of these rules. ( )

**b.** When the division issues a contract on behalf of an agency, in its role as the state's contracting agent, the division is responsible for contract administration and the agency is responsible for contract management. ( )

**02. Contract Management.** Each state agency which manages one (1) or more contracts, whether entered into directly by the agency or by the division acting as the statutory purchasing agency for the agency, will perform the following minimum contract management functions at a level consistent with the dollar value, complexity, and risk associated with each contract ( )

**a.** Designate a competent contract manager as the single point of contact for each agency contract; ( )

**b.** Document the contract manager's responsibilities and reporting requirements relative to the contract, including activities such as management of the invoice and payment process, budget tracking, and invoice review and reconciliation with contract requirements and deliverables, to ensure compliance; ( )

**c.** Document a communication and escalation plan, as between the contract manager, identified agency personnel and the contract administrator, designed to ensure timely and effective contract monitoring and issue resolution (the communication and escalation plan must include the division of purchasing for contracts for which the division of purchasing is acting as the statutory purchasing agent for the agency); ( )

**d.** Develop and implement internal contract monitoring tools, including a reporting structure, based

on the dollar value and/or potential risk associated with contract failure; and ( )

e. Close out each contract, including, documenting receipt of goods or services in compliance with contract requirements and reviewing vendor performance and lessons learned. ( )

**03. Service Contracts Exceeding \$1,500,000 in Total Value.** For each contract which is valued at more than one million five hundred thousand dollars (\$1,500,000) over the duration of the contract and which consists primarily of the purchases of services, the agency responsible for contract management must develop and implement contract reporting requirements that capture, at a minimum, information on compliance with financial provisions and delivery schedules; the status of any corrective action plans; as well as any liquidated damages assessed or collected under the contract during the current reporting period. Reports will be submitted to the designated agency purchasing representative as well as the division on no less than a biannual basis, with a schedule for each contract determined by the contract manager in consultation with the agency purchasing representative and the division. ( )

**114. INFORMATION TECHNOLOGY RESALE.**

**01. Purpose.** The use of resellers is common in the acquisition of information technology; however, the use of a reseller to acquire information technology attempts to separate the application of the State Procurement Act from the contract terms required by the information technology owner for use of the information technology. The requirements of this rule are in place to apply Idaho law to the contract terms required by the information technology owner, when information technology is acquired through a reseller. ( )

**02. Terms.** All license, sale, or use terms imposed by the information technology owner shall be subject to the following: ( )

a. Licensing, sale, or use terms required by a third party owner of information technology sold through a reseller shall be subject to these rules, specifically including Subsection 112.01 and Paragraph 112.02.a. of these rules. If a contract contains a term prohibited by Section 112 of these rules, the term shall be void pursuant to Section 67-9213, Idaho Code. ( )

**115. -- 199. (RESERVED)**

**SUBCHAPTER C – RULES GOVERNING CONTESTED CASE HEARINGS ON BID APPEALS  
AT THE DIVISION OF PURCHASING**

**200. RULES OF ADMINISTRATIVE PROCEDURE.**

The Idaho Rules of Administrative Procedure of the Attorney General shall govern contested cases under these rules, except as specified in these rules or where these rules differ. Determinations officers shall be considered hearing officers for purposes of the Idaho Rules of Administrative Procedure of the Attorney General. ( )

**201. NOTICE OF CONTESTED CASE HEARING.**

A notice of a contested case hearing shall be provided to the bidder, giving at least ten (10) days' advance notice of the contested case hearing. The contested case hearing will be held in Ada County, at such place as may be designated in the hearing notice. Upon concurrence of the parties and the determinations officer, contested case hearings may be conducted telephonically. ( )

**202. -- 207. (RESERVED)**

**208. WITNESSES AND EVIDENCE.**

The determinations officer, on his own or upon application of the bidder or the department of administration, may issue subpoenas for the attendance of witnesses and production of documents. ( )

**209. DETERMINATIONS OFFICER'S ISSUANCE OF A RECOMMENDED ORDER.**

Once the matter is fully submitted, the determinations officer shall issue a finding of fact, conclusions of law and recommended order, and provide copies to all parties. ( )

**210. -- 999. (RESERVED)**