

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and
Representatives DIXON, DeMordaunt, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Insurance:

IDAPA 18.04.16 - Rules Governing Short-Term Health Insurance Coverage (New Chapter) -
Proposed Rule (Docket No. 18-0416-1901);

IDAPA 18.06.06 - Rules for the Surplus Line Regulation - Proposed Rule (Docket No.
18-0606-1901).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/21/2019. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/20/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Principal Legislative Drafting Attorney - Elizabeth Bowen

DATE: November 01, 2019

SUBJECT: Department of Insurance

IDAPA 18.04.16 - Rules Governing Short-Term Health Insurance Coverage (New Chapter) - Proposed Rule (Docket No. 18-0416-1901)

IDAPA 18.06.06 - Rules for the Surplus Line Regulation - Proposed Rule (Docket No. 18-0606-1901)

Summary and Stated Reasons for the Rule

Docket No. 18-0416-1901: This proposed rule establishes a new chapter of rules on short-term health insurance coverage as required by H.B. 275 (2019). The rules include minimum standards for benefits provided under such plans.

Docket No. 18-0606-1901: This rule combines parts of three former rules on surplus lines insurance into one rule, in order to comply with Executive Order 19-02, the Red Tape Reduction Act.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted for both rules, and neither is anticipated to have a negative fiscal impact on the state general fund.

Statutory Authority

This rulemaking appears to be within the Department's statutory authority.

cc: Department of Insurance
Pamela Murray

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

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IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.04.16 – RULES GOVERNING SHORT-TERM HEALTH INSURANCE COVERAGE

DOCKET NO. 18-0416-1901 (NEW CHAPTER)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 41-4207, 41-5211, Idaho Code, and House Bill 275.

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 16, 2019.

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:

House Bill 275 passed the legislature and was signed into law by the Governor amending sections 41-5203, 41-5207, Chapter 52, Title 41. It added a new section of Idaho Code to define and provide for the purchase of enhanced short-term health insurance plans. Enhanced short-term plans will have an initial period of less than twelve (12) months. This rule will offer choices to consumers for individual health insurance and define the consumer protections required to offer such plans.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, page 240](#).

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 Weston Trexler at weston.trexler@doi.idaho.gov, or (208) 334-4315. 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 23, 2019.

Dated this 30th day of August, 2019.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0416-1901
(New Chapter)

IDAPA 18
TITLE 04
CHAPTER 16

18.04.16 – RULES GOVERNING SHORT-TERM HEALTH INSURANCE COVERAGE

000. LEGAL AUTHORITY.

Title 41, Chapters 2, 21, 42, and 52, Idaho Code.

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.16, “Rules Governing Short-Term Health Insurance Coverage.” ()

02. Purpose and Scope. Implement Title 41, Chapters 21, 42, and 52, Idaho Code, regarding short-term, limited-duration insurance by defining requirements for enhanced short-term plans and nonrenewable short-term coverage, including minimum standards for benefits, rating rules, enrollment, renewability and required disclosure provisions. ()

03. Applicability. This rule applies to all enhanced short-term plans and nonrenewable short-term coverage that provide medical expense coverage. ()

002. ADMINISTRATIVE APPEALS.

All administrative appeals will be governed by Title 41, Chapter 2, Idaho Code; Title 67, Chapter 52, Idaho Code; and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to the applicable definitions in Chapters 21, 42, and 52, Idaho Code, the following definitions apply: ()

01. Benchmark Medical Plan. The health benefit plan identified by the U.S. Department of Health and Human Services to be applicable in establishing required benefit coverages by Qualified Health Plans within Idaho, excluding any supplements for pediatric dental or vision. ()

02. Exchange. Has the meaning set forth in Section 41-6103, Idaho Code. ()

03. Nonrenewable Short-term Coverage. Short-term, limited-duration insurance that is not renewable, has a duration of six (6) months or less in total, and is not an Enhanced Short-term Plan under Section 41-5203(11), Idaho Code, and this rule. ()

04. Preexisting Condition. ()

a. A condition for which an ordinarily prudent person would seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage; ()

b. A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or ()

c. A pregnancy existing on the effective date of coverage. ()

05. Qualified Health Plan or QHP. A health plan certified as such by the Exchange. ()

06. Reissuance or Replace. The practice of issuing a short-term, limited-duration insurance policy covering at least one individual having short-term, limited-duration insurance coverage within sixty-three (63) days of the policy's effective date. ()

07. Short-term, Limited-duration Insurance. Health insurance coverage pursuant to a contract that has a specified expiration date less than twelve (12) months after the original effective date of the contract and, including renewals or extensions, has a total duration of no longer than thirty-six (36) months. ()

011. GENERAL RULES FOR ENHANCED SHORT-TERM PLANS.

01. Application of Requirements. Any short-term, limited-duration insurance that, including renewals, reissuance or extensions, has a total duration of longer than six (6) months is subject to the requirements applicable to enhanced short-term plans. ()

02. Guaranteed Issue. Enhanced short-term plans are only to be offered on a guaranteed issue basis. ()

03. Portability. Enhanced short-term plan coverage is qualifying previous coverage under Title 41, Chapter 52, Idaho Code. Preexisting condition exclusions must be waived for the period of time an individual was previously covered by an enhanced short-term plan or other qualifying previous coverage. ()

04. Requirement to Offer Exchange Plans. To offer an enhanced short-term plan, a carrier must offer individual QHPs through the Exchange in the same service area. ()

012. GENERAL RULES FOR NONRENEWABLE SHORT-TERM COVERAGE.

Nonrenewable short-term coverage is subject to the provisions of IDAPA 18.04.14, Sections 086, 087, 088, and 101. ()

013. -- 019. (RESERVED)

020. ENROLLMENT.

01. Enhanced Short-term Plans. There are two exclusive options for enhanced short-term plan enrollment. ()

a. Year-round Enrollment. If a carrier allows year-round enrollment in enhanced short-term plans, the following provisions apply: ()

i. A preexisting condition exclusion period, as defined at Subsection 010.04, may be applied, subject to Section 41-5208, Idaho Code. ()

ii. The policy must be offered on a plan year basis, not a calendar year basis. ()

b. Annual Open Enrollment Period. If a carrier restricts enrollment in enhanced short-term plans to an annual open enrollment period, the following apply: ()

i. No preexisting condition exclusion period may be applied. ()

ii. The beginning and ending dates of the open enrollment period are identical to those for enrollment in QHPs, unless the Director allows an extension of the open enrollment period for enhanced short-term plans after determining it is in the public interest. ()

iii. Special enrollment periods must be allowed to the same extent as QHP enrollment. ()

02. Nonrenewable Short-term Coverage. Nonrenewable short-term coverage is to be offered on a year-round basis. ()

021. RENEWAL AND REISSUANCE.

01. Enhanced Short-term Plans Renewals. ()

a. A policy must be renewable at the option of the enrollee, consistent with Section 41-5207, Idaho Code. ()

b. No new application or questions concerning the health or medical condition of the covered individuals may be requested to effectuate the renewal. ()

c. A policy is not to be renewable beyond thirty-six (36) consecutive months. ()

d. Upon exhaustion of a policy's renewability due to duration or age, the policyholder is eligible for enrollment into fully renewable coverage, including all of the current carrier's QHPs, when an enhanced short-term policy has been in effect for at least eleven (11) months. Timely notification of eligibility must be provided to the policyholder plus the notification of any offer of reissuance. ()

02. Enhanced Short-term Plans Reissuances. Upon exhausting renewability due to duration or age, the following provisions apply to reissuance: ()

a. No new application or questions concerning the health or medical condition of the covered individuals may be requested for reissuance. ()

b. The reissuance premium rate is a change in premium rate subject to IDAPA 18.04.14.036.17. ()

03. Nonrenewable Coverage. Carriers may not renew nonrenewable short-term coverage and may not reissue or replace nonrenewable short-term coverage issued by the same or another carrier. ()

022. RATING REQUIREMENTS.

01. Enhanced Short-term Plans. In addition to the requirements applicable to individual health benefit plans, the following rating requirements apply: ()

a. Premium rates may not vary by gender. ()

b. Geographic rating areas identical to those used for Exchange-offered QHPs. ()

c. Medical underwriting criteria may be used to ascertain the risk characteristics of an applicant, if the criteria are limited to those in the Universal Health Statement Addendum and available claims data. ()

d. Enhanced short-term plans comprise a single risk pool with the carrier's other actively marketed individual health benefit plans subject to Title 41, Chapter 52, Idaho Code. ()

e. The rating period is on a calendar year basis, whereby the rates filed apply to all enrollees uniformly during a given calendar year and premium rate changes occur at the start of a new calendar year. ()

02. Nonrenewable Short-term Coverage. The following rating requirements apply: ()

a. The rates cannot utilize case characteristics other than age, individual tobacco use, and geography but may vary by the duration of coverage requested. ()

- b.** Case characteristics are applied uniformly, without regard to the risk characteristics of an eligible individual. ()
- c.** The premium rate is not affected by an applicant's risk characteristics or health status. ()
- d.** The premium rate remains the same for the duration of the policy. ()

023. -- 030. (RESERVED)

031. MINIMUM STANDARDS FOR BENEFITS.

- 01. Required Covered Benefits.** ()
 - a.** Daily hospital room and board expenses subject only to limitations based on average daily cost of the semiprivate room rate in the area where the insured resides; ()
 - b.** Miscellaneous hospital services; ()
 - c.** Surgical services; ()
 - d.** Anesthesia services; ()
 - e.** In-hospital medical services; and ()
 - f.** Out-of-hospital care, consisting of physicians' services rendered on an ambulatory basis where coverage is not provided elsewhere in the policy for diagnosis and treatment of sickness or injury, diagnostic x-ray, laboratory services, radiation therapy, and hemodialysis ordered by a physician. ()
- 02. Minimum Additional Benefits.** A separate premium corresponding to additional benefits offered through a rider must be filed and actuarially justified. A policy must provide not fewer than three (3) of the following additional benefits: ()
 - a.** In-hospital private duty registered nurse services; ()
 - b.** Convalescent nursing home care; ()
 - c.** Diagnosis and treatment by a radiologist or physiotherapist; ()
 - d.** Rental of special medical equipment, as defined by the insurer in the policy; ()
 - e.** Artificial limbs or eyes, casts, splints, trusses or braces; ()
 - f.** Treatment for functional nervous disorders, and mental and emotional disorders; or ()
 - g.** Out-of-hospital prescription drugs and medications. ()
- 03. Enhanced Short-term Plans Covered Benefits.** The following covered benefits and limitations must be provided consistent with the Benchmark Medical Plan, including: ()
 - a.** Ambulatory (outpatient) patient services; ()
 - b.** Emergency services; ()
 - c.** Hospitalization; ()
 - d.** Maternity and newborn care; ()

- e. Mental health and substance use disorder services, including behavioral health treatment; ()
- f. Prescription drugs; ()
- g. Rehabilitative and habilitative services and devices; ()
- h. Laboratory services; and ()
- i. Preventive and wellness services and chronic disease management. ()

04. Prescription Drug Formulary. If a prescription drug coverage formulary is applied, the applicable formulary drug list must: ()

- a. Include at least one drug in every United States Pharmacopeia (USP) category and class; ()
- b. Cover a range of drugs across a broad distribution of therapeutic categories and classes and recommended drug treatment regimens that treat all covered disease states, and does not discourage enrollment by any group of enrollees; and ()
- c. Provide appropriate access to drugs included in broadly accepted treatment guidelines and indicative of then-current general best practices. ()

05. Cost Sharing. ()

- a. Except for out-of-network benefits offered as part of a managed care plan, a coinsurance percentage may not exceed fifty percent (50%) of covered charges. A coinsurance percentage for out-of-network benefits offered as part of a managed care plan may not exceed sixty percent (60%) of covered charges. ()
- b. The maximum out-of-pocket must be stated in the policy and in aggregate may not exceed four percent (4%) of the aggregate annual limit under the policy for each covered person. All deductibles, copayments, coinsurance and any other cost-sharing are applicable to the maximum out-of-pocket. Within the aggregate maximum, the policy may include separate out-of-pocket limits applicable to particular services. ()
- c. The annual limit is no less than one million dollars (\$1,000,000) for each covered person. ()
- d. Enhanced short-term plans must provide coverage for and not impose any cost sharing requirements for preventive and wellness services consistent with QHP requirements. ()

06. Applicability of Mental Health Parity. Enhanced short-term plans must meet the requirements of Section 2726 of the Public Health Service Act (Mental Health Parity and Addiction Equity Act) in the same manner and extent as QHPs. ()

07. Benefit Requirements. The minimum benefits required by Subsections 030.01, 030.02, and 030.03 may be subject to all applicable deductibles, coinsurance and general policy exceptions and limitations. Except as prohibited by Subsections 030.03, 030.05, and 030.06, a policy may also have special or internal limitations for nursing facilities, transplants, experimental treatments, services covered under Subsection 030.02, and other special or internal limitations authorized by the Director. Except as authorized by this Subsection through the application of special or internal limitations, a policy must cover, after any deductibles or coinsurance provisions are met, the usual, customary and reasonable charges, as determined consistently by the carrier and as subject to prior written approval by the Director or another rate agreed to between the insurer and provider, for covered services up to the annual limit. ()

032. -- 039. (RESERVED)

040. REQUIRED DISCLOSURE PROVISIONS.

Polices subject to this chapter must include in the application for coverage, any application materials, and the insurance contract, the following language in at least 14-point type:

“This coverage is not required to comply with certain federal market requirements for health insurance, principally those contained in the Affordable Care Act. Be sure to check your policy carefully to make sure you are aware of any exclusions or limitations regarding coverage of preexisting conditions or health benefits (such as hospitalization, emergency services, maternity care, preventive care, prescription drugs, and mental health and substance use disorder services). Your policy might also have lifetime and/or annual dollar limits on health benefits. If this coverage expires or you lose eligibility for this coverage, you might have to wait until an open enrollment period to get other health insurance coverage.” ()

041. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.06.06 – RULES FOR THE SURPLUS LINE REGULATION

DOCKET NO. 18-0606-1901

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1232, 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 16, 2019.

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

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

This rule combines parts of three former rules regarding surplus lines into one rule following the Governor's [Executive Order 19-02](#), the Red Tape Reduction Act. This rule provides updated procedures for the placement of surplus lines insurance in the state of Idaho.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 7, 2019, Idaho Administrative Bulletin, [Vol. 19-8, p. 84](#).

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 Nathan Faragher at nathan.faragher@doi.idaho.gov, or (208) 334-4314. 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 23, 2019.

Dated this 9th day of September, 2019.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0606-1901
(Only Those Sections With Amendments Are Shown.)

18.06.06 – ~~RULES FOR THE SURPLUS LINE REGULATION~~ **RULES**

000. LEGAL AUTHORITY.

~~The statutory authority of this rule is Title 67, Chapter 52, Idaho Code and~~ Title 41, Chapters ~~2 and~~ 12, Idaho Code. (1-1-94)()

001. TITLE AND SCOPE.

01. Title. ~~This rule is titled~~ IDAPA 18.06.06, “~~Rules for the Surplus Line Regulation~~ **Rules**.” (6-30-19)F()

02. Scope. ~~The purpose of this rule is to p~~Provide procedures for the placement of surplus line insurance. (5-3-03)()

002. ~~WRITTEN INTERPRETATIONS. (RESERVED)~~

~~The Department of Insurance has or relies upon written interpretive statements of the rule chapter in accordance with Section 67-5201(19)(b)(iv), Idaho Code.~~ (1-1-94)

003. ADMINISTRATIVE APPEALS.

All administrative appeals ~~shall be~~ **are** governed by **Title 41**, Chapter 2, ~~Title 41~~, Idaho Code, ~~and the Idaho Administrative Procedure Act~~, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, Idaho Rules of Administrative Procedure, Idaho Rules of Administrative Procedure of the Attorney General ~~—General Provisions.~~ (6-30-19)F()

004. DEFINITIONS.

In addition to the definitions set forth in Section 41-1213, Idaho Code, the following definitions also apply: ()

01. **Open Lines for Export.** ~~The term~~ “Open Lines for Export” ~~shall mean~~ **is defined as** the class or classes of business which the Director ~~by order or by rule, bulletin, or by publishing on the Department of Insurance website~~, has declared eligible for export in accordance with Section 41-1216, Idaho Code, ~~and for which there appears to be no reasonable or adequate market among authorized insurers, either to acceptance of risk, contract terms, or premium or premium rate.~~ (6-30-19)F()

02. **Lines Other Than Open Lines for Export.** ~~The term~~ “Lines Other Than Open Lines for Export” ~~shall mean~~ **is defined as** the class ~~of or~~ classes of business not on the list of open lines for export which are to be offered to eligible surplus lines insurers in accordance with ~~Sections 41-1214, and 41-1215~~ **Title 41 Chapter 12**, Idaho Code. (6-30-19)F()

03. **Diligent Search.** ~~Diligent search or effort by the Surplus Line producer, for purposes of Section 41-1214(2), Idaho Code, shall be deemed to have been~~ **A Broker has** exercised **their obligations under Section 41-1214(2), Idaho Code** if the ~~Surplus Line producer~~ **Broker** or the referring insurance producer ~~shall~~ **submits** a risk to at least ~~three~~ **one (1)** authorized companies ~~y, which are~~ engaged in writing in Idaho the type of coverage sought, or if there are no companies ~~actually~~ engaged in writing such coverage, the risk ~~shall be~~ **is** submitted to at least ~~three~~ **one (1)** companies ~~y that, in the Surplus Line Broker’s or producer’s or the insurance producer’s professional judgment, are~~ **is** the most likely to accept the risk. (6-30-19)F()

04. **Delegated Contractor.** ~~Any contractor to whom activities have been delegated by the Director under Section 41-1232, Idaho Code.~~ ()

~~005. DELEGATION OF RESPONSIBILITY TO SURPLUS LINES ASSOCIATION.~~

~~The Idaho Department of Insurance delegates the following activities to the Surplus Lines Association of Idaho ("Association"):~~ (6-30-19)T

~~01. **Eligibility for Export.** Under the general supervision of the Idaho Department of Insurance, the Association will be responsible for determination of eligibility for export of particular proposed coverages to eligible unauthorized insurers.~~ (6-30-19)T

~~02. **Broker Compliance.** The Association is to examine all submissions from licensed resident and non-resident Idaho Surplus Lines Brokers to assure compliance with Section 41-1217, Idaho Code—Eligible Surplus Lines Insurers.~~ (6-30-19)T

~~03. **Requirements of Surplus Lines Association.** That the Association, in addition to the responsibilities outlined above, shall:~~ (6-30-19)T

~~a. For the protection of all concerned have its Articles, By-Laws, Rules, and Procedures approved by the Director. Any changes made therein should receive prior approval before being put into effect. However, any submitted change, if not acted on within sixty (60) days of receipt by the Director, will be deemed approved.~~ (6-30-19)T

~~b. File with the Director, and keep current, a list of its members.~~ (6-30-19)T

~~c. Keep complete records of all transactions concerning Surplus Lines to the end that proper tax may be collected on surplus lines policies and that proper reports will be forwarded to the Director as concerns all submissions. Submissions are to be made by licensed Idaho Surplus Lines Brokers through the Association to the Director on forms approved by the Director, and shall comply with requirements of Chapter 12, Idaho Code.~~ (6-30-19)T

~~d. Make its records available at any time for examination by the Director.~~ (6-30-19)T

~~e. Report through its manager to the Director any known violations of the Surplus Lines Law as cited in Title 41, Chapter 12, Idaho Code.~~ (6-30-19)T

0065 -- 010. (RESERVED)

010. DELEGATION OF RESPONSIBILITY TO SURPLUS LINES ASSOCIATION.

~~The Idaho Department of Insurance delegates the following activities to the Surplus Lines Association of Idaho ("Association"):~~ (6-30-19)T

~~01. **Eligibility for Export.** Under the general supervision of the Idaho Department of Insurance, the Association will be responsible for determination of eligibility for export of particular proposed coverages to eligible unauthorized insurers.~~ (6-30-19)T

~~02. **Broker Compliance.** The Association is to examine all submissions from licensed resident and nonresident Idaho Surplus Lines Brokers to assure compliance with Section 41-1217, Idaho Code—ELIGIBLE SURPLUS LINES INSURERS.~~ (6-30-19)T

~~03. **Requirements of Surplus Lines Association.** That the Association, in addition to the responsibilities outlined above, shall:~~ (6-30-19)T

~~a. For the protection of all concerned have its Articles, By-Laws, Rules, and Procedures approved by the Director. Any changes made therein should receive prior approval before being put into effect. However, any submitted change, if not acted on within sixty (60) days of receipt by the Director, will be deemed approved.~~ (6-30-19)T

~~b. File with the Director, and keep current, a list of its members.~~ (6-30-19)T

~~c. Keep complete records of all transactions concerning Surplus Lines to the end that proper tax may be collected on surplus lines policies and that proper reports will be forwarded to the Director as concerns all submissions. Submissions are to be made by licensed Idaho Surplus Lines Brokers through the Association to the Director on forms approved by the Director, and shall comply with requirements of Chapter 12, Idaho Code.~~ (6-30-19)T

011. BIENNIAL LICENSE.

The Idaho license of a resident or non-resident *Surplus Line* Broker must be renewed every two (2) years. ~~Both the~~ original license fee and the renewal fee are prescribed in ~~the Rules of the Idaho Department of Insurance ("Department"), IDAPA 18.01.02, "Schedule of Fees, Licenses, and Miscellaneous Charges."~~ ~~Producers are in violation of the Insurance Code if they~~ A broker will not solicit surplus line business before ~~they are~~ being licensed as a *Surplus Line* Broker. ~~If a~~ A broker must notify the Licensing Division of the Department if not renewing the license decides not to renew his license in any particular year, he should notify the Licensing Division of the Department of his intention prior to ~~his~~ the license renewal date. The Director may, ~~in his discretion,~~ allow the continuation of a non-renewed license ~~which is not timely renewed,~~ if, within one (1) year after the renewal date, the licensee submits ~~the appropriate~~ a renewal request and a continuation fee ~~which is~~ twice the amount ~~otherwise~~ required ~~as provided by~~ Section 41-1008(3), Idaho Code. (5-3-03)()

012. ANNUAL REPORT.

Each *Surplus Line* Broker ~~shall~~ will file an annual report with the Director by March 1st of each year, of Surplus Line business transacted during the previous calendar year on an approved forms ~~approved by the Director.~~ (6-30-19)()

013. PAYMENT OF STATE TAX.

01. Tax Due March 1. On or before March 1st of each year, ~~all Idaho licensed Surplus Line~~ each licensed Brokers ~~shall~~ will pay premium tax to the Department ~~the premium tax~~ on business written during the preceding calendar year. ~~The Surplus Line Broker must collect this tax, which tax will be collected~~ from the insured, in addition to the stamping fee. (5-3-03)()

02. Tax Summary. By February 1st of each year the *Surplus Lines Association* delegated contractor will provide to each *Surplus Line* Broker a summary of records showing the state tax due the Department for the preceding year. ~~The broker must pay and this amount will be paid~~ to the Department ~~the exact amount of tax indicated on the Surplus Lines Association summary by the Broker.~~ A flat percentage of the gross premium written during the year is not acceptable since tax was collected on each individual policy and that full amount must will be paid to the Department. (5-3-03)()

014. PAYMENT OF STAMPING FEES.

01. Application. ~~The~~ A stamping fee ~~shall be~~ is charged on all premiums and policy fees written on Idaho business at a rate established by the *Board of Directors of the Surplus Line Association* delegated contractor and approved by the Department. This rate will may be adjusted ~~from time to time in order~~ to obtain the objectives of the *Association* delegated contractor. The stamping fee cannot be refunded except ~~where there are~~ in the case of extenuating circumstances, ~~reported to, and~~ approved by the *Surplus Lines Association* delegated contractor. (5-3-03)()

02. Association Summary. Within ten (10) days following the month during which the surplus line insurance was handled through the *Association office* delegated contractor, the *Manager* delegated contractor will submit ~~to each Surplus Line Broker~~ an invoice summarizing the premium, Idaho tax, and Stamping Fee for each submission processed to each Broker. (5-3-03)()

03. Payable on Receipt. The Stamping Fee ~~of the Surplus Line Association~~ is payable upon receipt of billing. It is delinquent if not paid within thirty (30) days after the last day of the month in which the business was reported. (1-1-94)()

015. COLLECTION OF TAXES.

01. Idaho Premium Taxes. Idaho Premium Tax must will be collected from the insured. ~~This tax is charged on the premium paid.~~ Policy fees, service fees, and other like fees are considered part of the premium and subject to premium tax. State premium taxes must will be refunded to the taxpayer upon cancellation of the policy or return of premium for any reason. (5-3-03)()

02. **Purchasing Groups.** Purchasing groups that obtain insurance from an unauthorized or authorized surplus lines insurer ~~must will~~ use an Idaho-licensed surplus lines b Broker licensed in the state of Idaho. The Surplus Lines Broker is responsible to collect and submit all taxes and fees ~~to the Surplus Lines Association as required by this Chapter.~~ as required by (5-3-03)()

016. **REPORTING TAXES AND STAMPING FEES.**

Brokers ~~must are to~~ report premium taxes and stamping fees in increments of not less than one year. ~~If a b~~ A Broker elects to who collect quarterly or monthly payments of premiums from the insured, ~~he may do so, providing he will provide~~ reports of the premium tax and stamping fee in the initial submission or renewal for a full year. (1-1-94)()

017. **PLACEMENT AND COMMISSIONS.**

01. **Basic Requirement.** All surplus line business ~~whether produced from within the state of Idaho or outside, must is to~~ be placed through a licensed Surplus Line Broker. Each producer of surplus line business ~~must will~~ hold an Idaho resident or non-resident producer license ~~for Idaho.~~ (5-3-03)()

02. **Idaho Producer.** When a producer requests placement by a licensed Surplus Line Broker, the commission received and paid ~~shall will~~ be based on the mutual written agreement of the parties ~~concerned.~~ (6-30-19)T()

018. **SUBMISSION TIME PERIODS.**

All affidavits, submissions, certificates, endorsements and other documents for insurance written for Open Lines for Export and Other Than Open Lines for Export must be received at by the Surplus Lines Association delegated contractor within thirty (30) days of receipt by the broker of the certificate, endorsement or other policy document. If the complete submission cannot be made within this time period, ~~then~~ the information with submission form and affidavit, if applicable, will be forwarded. The b Broker is responsible for meeting this requirement ~~and the burden of compliance is upon him.~~ (6-30-19)T()

019. **OPEN LINES FOR EXPORT.**

Pursuant to Section 41-1216, the Director will publish A list of approved classes of insurance coverage or risks ~~shall be published by the Director and a copy of which shall be delivered to and maintained by a delegated association, if one has been delegated. These classes are recognized by the Department and the Association as eligible for export since it has been previously determined that an adequate market among authorized insurers does not exist in Idaho. Under this provision, brokers are not required to comply with sections 41-1214(2), (3) and 41-1215 of the Idaho Insurance Code, but proper submission must be provided to the Director or to a delegated association, if one has been delegated pursuant to Section 41-1232(c), Idaho Code, within thirty (30) days after the insurance policy is received by the Idaho broker.~~ If a risk does not appear on this list, then the b Broker must file the normal submission forms and documents and ~~he must~~ execute the broker's affidavit. (6-30-19)T()

020. **BROKERS RECORDS.**

~~Each broker shall keep in his office a~~ A full and true record of each surplus line coverage procured by ~~him as outlined in section 41-1227 of the Idaho Insurance Code~~ each Broker is to be maintained by the Broker. Reports of all documents processed by the Surplus Lines Association delegated contractor will be provided on a monthly basis to the b Broker. These reports, in addition to the broker's copy of policies and endorsements, must be kept for a period of five (5) years and are subject to examination by the d Director. (5-3-03)()

021. **APPROVED LIST OF INSURERS.**

Pursuant to Section 41-1217, Idaho Code, the Director compiles or approves A list, ~~commonly known as the "white" list, containing the only non-admitted companies authorized of unauthorized insurers, whether foreign or alien, eligible~~ to write surplus line business in ~~this state will be issued from time to time by the Director. While this list is in effect, a b~~ Idaho. Brokers may only place surplus line business with ~~those~~ only on the current list. ~~After receiving the updates from the Director, t~~ The association delegated contractor will ~~keep b~~ inform Brokers informed of additions and changes through timely notice to the list. (7-1-98)()

022. -- 999. (RESERVED)