

Dear Senators SIDDOWAY, Stennett, Hill, and
Representatives LOERTSCHER, Monks, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Secretary of State:

IDAPA 34.06.02 - Rules Governing the Electronic Recording of Plats, Records of Survey, and Corner
Records (New Chapter) - Proposed Rule (Docket No. 34-0602-1801).

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 11/08/2018. 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 12/10/2018.

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 State Affairs Committee and the House State Affairs Committee
FROM: Division Manager - Kristin Ford
DATE: October 18, 2018
SUBJECT: Secretary of State

IDAPA 34.06.02 - Rules Governing the Electronic Recording of Plats, Records of Survey, and Corner Records (New Chapter) - Proposed Rule (Docket No. 34-0602-1801)

Summary and Stated Reasons for the Rule

The Secretary of State submits notice of proposed rulemaking relating to the electronic recording of plats, records of survey and corner records. The agency states that these rules will implement consistent standards and govern the electronic filing, recording and retrieval of plats, records of survey and corner records in country recording offices pursuant to chapter 13, title 50, and chapters 16 and 19, title 55, Idaho Code.

Negotiated Rulemaking / Fiscal Impact

The agency states that negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules was published in the June 6, 2018 edition of the Idaho Administrative Bulletin, Volume 18-6, page 108. No fiscal impact is expected.

Statutory Authority

Due to some jurisdictional issues among the Secretary of State's Office, the Electronic Recording Commission and the Board of Professional Engineers and Land Surveyors, the Secretary of State is withdrawing this proposed rule and may bring back a revision next year for consideration.

cc: Secretary of State
Chad Houck

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules must 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 34 – OFFICE OF THE SECRETARY OF STATE

34.06.02 – RULES GOVERNING THE ELECTRONIC RECORDING OF PLATS, RECORDS OF SURVEY, AND CORNER RECORDS

DOCKET NO. 34-0602-1801 (NEW CHAPTER)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-903(9) and 67-906(1)(c), Idaho Code.

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

PUBLIC HEARING ON PROPOSED RULE
Wednesday, August 22, 2018 – 10:00 a.m.

**Idaho Board of Professional Engineers
& Land Surveyors Office
1510 E. Watertower Street, Ste. 110
Meridian, ID 83642**

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 amendments will implement consistent standards for electronically filing and recording plats, records of survey and corner records in county courthouses.

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 as a result of this rulemaking:

There is no fiscal impact to the general fund. The rule change will not increase costs to any state agency or the general funds of the state of Idaho because the rule relates to the method of recording legal documents in a courthouse in a more efficient and cost-effective manner.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, **Volume 18-6, page 108**.

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 Keith Simila at (208) 373-7210.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 28th day of June, 2018.

Chad Houck, Deputy Secretary of State
Telephone (208) 332-2862
Fax (208) 334-2282
Email: chouck@sos.idaho.gov

P.O. Box 83720
Boise, ID 83720-0080

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 34-0602-1801
(New Chapter)

IDAPA 34
TITLE 06
CHAPTER 02

34.06.02 – RULES GOVERNING THE ELECTRONIC RECORDING OF PLATS,
RECORDS OF SURVEY AND CORNER RECORDS

000. LEGAL AUTHORITY.

In accordance with Section 67-903(9), Section 50-1304, 55-1606, and 55-1906 Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute electronic filing or recording of land surveying drawings and forms not inconsistent with the Uniform Real Property Electronic Recording Act enacted as Title 31, Chapter 29, Idaho Code and IDAPA 36.06.01 Rules Governing the Electronic Recording of Real Property. ()

001. TITLE AND SCOPE.

01. Title. These rules will be cited as IDAPA 34.06.02, “Rules Governing the Electronic Recording of Plats, Records of Survey and Corner Records,” IDAPA 34, Title 06, Chapter 02. ()

02. Scope. These rules will govern the electronic filing, recording and retrieval of plats, records of survey and corner filing and perpetuation forms - known as corner records in the county recording offices under Title 50, Chapter 13, and Title 55, Chapters 16 and 19, Idaho Code. Only documents signed and sealed by a licensed professional land surveyor may be submitted for electronic filing or recording as governed by this chapter. Additional signatures and approvals are required by the county for plats as described in Title 50, Chapter 13, Idaho Code. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, documents relating to the interpretation of these rules, and to the documentation of compliance with this chapter, are available for public inspection and copying at the Office of the Secretary of State or the Office of the Board of Licensure for Professional Engineers and Land Surveyors. ()

003. ADMINISTRATIVE APPEALS.

This chapter does not provide for appeal of the electronic filing, recording or retrieval requirements. ()

004. PUBLIC RECORDS ACT COMPLIANCE.

All records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

005. -- 009. (RESERVED)

010. DEFINITIONS.

01. Document. The meaning will be the same as provided in Section 31-2902, Idaho Code. ()

02. Electronic Document. The meaning will be the same as provided in Section 31-2902, Idaho Code. ()

03. Electronic Recording. The delivery and return of an electronic document for the purpose of recording that document with the participating recorder. ()

04. Electronic Signature. The meaning will be the same as provided in 31-2902(4), Idaho Code. ()

05. Participating Recorder. A county recorder who has elected to accept Electronic Documents for filing, recording or retrieval. ()

06. CAD (Computer-Aided Drafting). Software used to create drawings in vector format. ()

07. DWG (Drawing). A proprietary binary file format used for storing two- and three-dimensional design data and metadata. It is the native format for several CAD packages including DraftSight, AutoCAD™, IntelliCAD™ (and its variants), Caddie™ and Open Design Alliance compliant applications. ()

08. DXF (Drawing eXchange Format). A file extension for a graphic image format typically used with AutoCAD™. ()

09. PDF (Portable Document Format). The meaning shall be the same as provided in IDAPA 34.06.01, Rules Governing the Electronic Recording of Real Property. ()

10. TIFF (Tag Image File Format). The meaning shall be the same as provided in IDAPA 34.06.01, “Rules Governing the Electronic Recording of Real Property.” ()

11. Submitter. A professionally licensed land surveyor or a person designated by a professionally licensed land surveyor who requests that an electronic document be filed or recorded. ()

011. ELECTRONIC FILING AND RECORDING.

In addition to the following, electronic documents will conform to IDAPA 34.06.01, Rules Governing the Electronic Recording of Real Property. ()

01. Plats And Records Of Survey. Plats and records of survey, which utilizes scanned ink-signed documents or documents that have been created and signed electronically for the purposes of electronic recording must include a PDF or TIF(F) electronic file in the format accepted by the participating recorder. The digital file must also comply to the following standards: ()

a. Finished size 18 x 27 as required by 50-1304 or 55-1905, Idaho Code; ()

b. 2-COLOR BLACK/WHITE (1BPPP); ()

c. TIF(F) electronic files and/or scanned images will have a 400 DPI minimum resolution; ()

d. Include an image of the land surveyor's seal and an electronic signature; ()

e. Multiple sheets may be combined into one electronic file, if accepted by the participating recorder. ()

02. Corner Record And Filing Forms. Corner record and filing forms – known as corner records, which utilize scanned ink-signed documents or documents that have been created and signed electronically for the purposes of electronic recording must include a PDF or TIF(F) electronic file in the format accepted by the participating recorder. The digital file will be compliant with the requirements of IDAPA 10.01.03, “Rules for Corner Perpetuation and Filing,” and must also comply with the following minimum standards: ()

a. Finished size 8.5 x 14; ()

b. 2-COLOR BLACK/WHITE (1BPPP); ()

- c. TIF(F) and/or scanned images must have a 400 DPI minimum resolution; ()
- d. Include an image of the land surveyor's seal and an electronic signature; ()
- e. Multiple sheets may be combined into one electronic file if accepted by the participating recorder. Only one file is allowed for each corner record. ()

012. RETRIEVED FILES.

01. Plats and Records Of Survey Retrieval. The files retrieved must be legible at the size reproduced under Subsection 011.01 of this chapter. ()

02. Corner Record Retrieval. The files retrieved must be legible at the size reproduced under Subsection 011.02 of this chapter. ()

013. PARTICIPATING RECORDER.

01. Documents Accepted. A participating recorder may elect to accept electronic documents containing electronic signatures that the participating recorder has the technology to support. Participating recorders may accept corner records, records of survey, or plats or any combination of the three. ()

02. Authentication. Land surveyors must use electronic signatures that are authenticated by a third-party security certificate. A participating recorder has no additional responsibility to independently authenticate electronic signatures. ()

014. MINIMUM STANDARDS.

01. Forms. Forms for corner records must comply with the requirements of IDAPA 10.01.03 and are available from the Board of Licensure for Professional Engineers and Land Surveyors. ()

02. Corner Records. Minimum standards for corner records are as required in Title 55 Chapter 16, Idaho Code. ()

03. Records of Survey. Minimum standards for records of survey are as required in Title 55 Chapter 19, Idaho Code. ()

04. Plats. Minimum standards for plats are as required in Title 50, Chapter 13, Idaho Code. ()

05. Compliance. Corner records, records of survey, or plats must comply with the requirements of this chapter and the minimum standards prior to electronically filing or recording. ()

015. -- 999. (RESERVED)