

*State of Idaho*  
**DEPARTMENT OF INSURANCE**

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DEAN L. CAMERON  
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Interstate Insurance Product Regulation Commission  
Management Committee  
c/o Karen Schutter  
444 North Capitol Street, NW, Suite 700 Hall of States  
Washington DC 20001-1509

**Via electronic mail:** [comments@insurancecompact.org](mailto:comments@insurancecompact.org)

Dear Members of the IIPRC Management Committee,

Thank you for the opportunity to comment on the proposed amendments to Rulemaking Rule for Incorporation by Reference of the Interstate Insurance Product Regulation Commission. The Idaho Department of Insurance (“IDOI”) offers the following comments and suggested revisions in response to the proposed amendments.

**Comments regarding the proposed amendments**

Incorporations by reference come in two forms: specific incorporations, which incorporate the material as it is on the date of the incorporation, and general incorporations, which incorporate the material including all future revisions. This proposal appears to contain a hybrid of the two: the material is generally incorporated unless the materials change so much that compacting states would need to take regulatory or legislative action to adopt the changes.

This hybrid proposal raises the question of which organization must determine whether generally incorporated materials have changed so much that the Commission should begin its rulemaking process. Individual compacting states may disagree about whether their existing laws permit the material to be incorporated without amendments. We do not believe that the Commission should infringe upon a compacting state’s ability to interpret its own laws.

Furthermore, some state legislatures are wary of general incorporation on principle. For example, Idaho Code § 41-287 prohibits the IDOI from enforcing an NAIC standard unless “application of the rule, regulation, directive or standard, including policy reserves, is authorized by statute and implemented by the director pursuant to chapter 52, title 67, Idaho Code.”

For these reasons, we propose the following revision, which would clarify that incorporated material must be incorporated specifically, rather than generally, and ensure that compacting states and the Commission do not reach contrary interpretations of existing laws.

**Proposed revisions to the amendments**

§ 120. Incorporation by Reference

(a) A Rule may ~~incorporate~~ **make specific incorporation** by reference of a model law, regulation, procedure or guideline adopted by the National Association of Insurance Commissioners.

(b) A Rule may ~~incorporate~~ **make specific incorporation** by reference of a code, standard, or rule adopted by an organization of which a two-thirds majority of the Compacting States are members.

(c) Materials may be incorporated by reference pursuant to Sections (a) and (b) if:

(1) Repeating verbatim the text of the materials in the Rule would be unduly cumbersome, expensive, or otherwise inexpedient; and,

(2) The reference in the Rule fully identifies the citation of the incorporated materials and the materials are readily available to the public in written or electronic form at no charge or for a reasonable charge; and,

(3) The Commission maintains a copy of the materials readily available for public inspection upon request.

(d) When the materials incorporated by reference are changed by the adopting **organization in a manner that would require Compacting States to take regulatory or legislative action to adopt,** the Commission shall automatically initiate the rulemaking process in accordance with Sections 104 and 105 herein and the procedures for adoption of a new or amended Rule by the Management Committee and Commission shall apply.

The first amendment to this rule was effective October 12, 2008. The second amendment to this rule was effective November 10, 2011. The third amendment to this rule is effective \_\_\_\_\_.

Again, thank you for allowing us to comment.

Sincerely,



Dean L. Cameron  
Director