



## National Association of Professional Surplus Lines Offices, Ltd.

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Richard M. Bouhan  
Executive Director

November 19, 2009

John W. Bauer  
Chief Counsel, Regulatory Affairs  
National Association of Insurance Commissioners  
2301 McGee Street, Suite 800  
Kansas City, Missouri 64108

### **RE: NARAB Reciprocity Checklist**

Dear Mr. Bauer:

I am writing from the National Association of Professional Surplus Lines Offices, Ltd. (NAPSLO) regarding the NARAB Working Group Reciprocity Checklist. I would first like to thank you, the NARAB Working Group and the NAIC for undertaking this important step to ensure that the state licensing system functions as efficiently as possible. The first state that I would like to comment on is Idaho. Our interpretation of Idaho Bulletin 08-12 (attached) is that a retail insurance producer may act as a subproducer for a surplus lines wholesale broker. Bulletin 08-12 uses the term "referring insurance producer" to refer to the retail insurance producer who may conduct a diligent search of the admitted markets. The bulletin specifically states:

"Diligent search or effort by the surplus line producer, for the purpose of the Section 41-1214(2) Idaho Code, shall be deemed to have been exercised if the surplus lines producer or the referring insurance producer shall submit a risk to at least three authorized companies, 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 submitted to at least three companies, which, in the surplus line producer's or the insurance producer's professional judgment, are the most likely to accept the risk."

In our opinion, it is clear the state intended to allow the retail agent to conduct the diligent search which is the most common production model utilized in the surplus lines market. It is a nuance that is frequently not apparent to those who have never been involved with the surplus lines markets. I previously submitted a collection of surplus lines state bulletins, regulations, statutes and affidavit forms where the states authorized the retailer to conduct the diligent search.

For the surplus lines market to function as designed, it is frequently necessary for the retail agent to conduct a diligent search, because it is not possible to know in advance if there is an admitted market for a particular risk. Only once the risk is being declined by the admitted markets does it become apparent to the retail agent that a surplus lines

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wholesaler should be brought in to assist with the placement of the risk in the surplus lines market.

Thank you for the opportunity to comment. Please do not hesitate to contact me if I can be of further assistance.

Yours truly,

A handwritten signature in cursive script that reads "Steven P. Stephan". The signature is written in black ink and is positioned below the "Yours truly," text.

Steven P. Stephan, J.D., CPCU, ARe  
Director of Government Relations

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**IDAPA 18  
TITLE 01  
Chapter 18**

**18.01.18 - OPEN LINES FOR EXPORT - SURPLUS LINES**

**000. LEGAL AUTHORITY.**

Title 41, Chapter 12, Idaho Code.

(1-1-94)

**001. TITLE AND SCOPE.**

The purpose of this Rule is to provide a list of open lines for export as provided by Section 41-1216, Idaho Code, OPEN LINES FOR EXPORT.

(1-1-94)

**002. (RESERVED).**

**003. ADMINISTRATIVE APPEALS.**

There is no appeal to the Attorney General from application of this rule. All such appeals must be instituted by written demand for a hearing before the Director of Insurance, per Idaho Code Section 41-232. Further appeal from the Director's decision can be taken to district court, pursuant to Sections 41-242 and 67-5270, Idaho Code.

(1-1-94)

**004. DEFINITIONS.**

**01. Open Lines For Export.** The term "Open Lines for Export" shall mean the class or classes of business which after formal hearing, for which notice was given to each insurer authorized to transact such class or classes of business within this state, there appears to be no reasonable or adequate market among authorized insurers, either to acceptance of risk, contract terms, or premium or premium rate.

(1-1-94)

**02. Lines Other Than Open Lines For Export.** The term "Lines Other than Open Lines for Export" shall mean the class 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, Idaho Code.

(1-1-94)

**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 exercised if the Surplus Line producer or the referring insurance producer shall submit a risk to at least three authorized companies, 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 submitted to at least three companies which, in the Surplus Line producer's or the insurance producer's professional judgment, are the most likely to accept the risk.

(1-1-94)

**005. -- 010. (RESERVED).**

**011. PROCEDURE.**

**01. Open Lines.** Insurance written in those classes that have been declared open lines for export need not comply with Sections 41-1214(2), 41-1214(3) and 41-1215, Idaho Code, but the proper submission form must be forwarded 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.

(1-1-94)

**02. Other Lines.** Insurance written in those classes termed lines other than open lines for export are to be carefully processed to assure all concerned that the intent of Sections 41-1214 and 41-1215, Idaho Code, has been satisfied. The required broker's affidavit and submission form must be filed with the Director or a delegated association, if one has been delegated, within thirty (30) days after the insurance policy is received by the Idaho broker.

(1-1-94)

**012. OPEN LINES FOR EXPORT - SURPLUS LINES.**

The attached list of open lines for export to eligible surplus lines insurers will continue in effect during the existence of the conditions upon which predicated, subject to earlier termination by the Director. A class or classes may be deleted at the direction of the Director if conditions appear to warrant such action. This list supersedes any previous list published or compiled for use in the state of Idaho. This list becomes effective November 15, 1980.

(1-1-94)

**013. SEVERABILITY.**

If any provision of this Rule shall be held invalid, the remainder of the Rule shall not be affected thereby. (1-1-94)

**014. OPEN LINES FOR EXPORT - SURPLUS LINES.**

**01. Code AH Accident And Health. (1-1-94)**

**a.** Accidental death - high limit or hazardous occupation. (1-1-94)

**b.** Accidental death - world wide coverage. (1-1-94)

**c.** Air crew personal accident. (1-1-94)

**d.** Aviation accident, personal. (1-1-94)

**e.** Dread disease. (1-1-94)

**f.** Twenty-four (24) hour accident - high limits. (1-1-94)

**02. Code AL Auto Liability. (1-1-94)**

**a.** Ambulance service. (1-1-94)

**b.** Automobile "Bobtail" liability. (1-1-94)

**c.** Automobile bus or livery. (1-1-94)

**d.** Automobile diving schools. (1-1-94)

**e.** Auto racing liability. (1-1-94)

**f.** Auto U-drive. (1-1-94)

**g.** Butane-propane hauling, (1-1-94)

**h.** Explosive hauling. (1-1-94)

**i.** Gasoline distribution. (1-1-94)

**j.** Go-karts. (1-1-94)

**k.** Logging truck liability. (1-1-94)

**l.** Long haul trucks. (1-1-94)

**m.** Midget autos. (1-1-94)

**n.** Private patrol service. (1-1-94)

**o.** Taxi cabs. (1-1-94)

**03. Code AP Auto Physical Damage. (1-1-94)**

**a.** Automobile, antique. (1-1-94)

**b.** Automobile, classic. (1-1-94)

<b>c.</b>	Auto renters conversion.	(1-1-94)
<b>d.</b>	Logging trucks.	(1-1-94)
<b>e.</b>	Long haul trucks.	(1-1-94)
<b>f.</b>	Taxi cabs.	(1-1-94)
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<b>a.</b>	Air cargo.	(1-1-94)
<b>b.</b>	Aircraft - antique.	(1-1-94)
<b>c.</b>	Aircraft - chartered.	(1-1-94)
<b>d.</b>	Aircraft applicators liability including crop damage, chemical drift.	(1-1-94)
<b>e.</b>	Aircraft - excess passenger liability.	(1-1-94)
<b>f.</b>	Aircraft - fixed base operations.	(1-1-94)
<b>g.</b>	Aircraft - hull.	(1-1-94)
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<b>m.</b>	Hangar-Keeper's legal liability.	(1-1-94)
<b>05.</b>	<b>Code FA Fire And Allied Lines.</b>	(1-1-94)
<b>a.</b>	Amusement devices.	(1-1-94)
<b>b.</b>	Amusement parks and carnivals.	(1-1-94)
<b>c.</b>	Business Interruption - value, excess.	(1-1-94)
<b>d.</b>	Business Interruption - contingent, excess.	(1-1-94)
<b>e.</b>	Bowling alleys.	(1-1-94)
<b>f.</b>	Chattel Mortgage, non-filing or non-recording.	(1-1-94)
<b>g.</b>	Collapse of building.	(1-1-94)
<b>h.</b>	Crop Insurance - all weather hazards.	(1-1-94)

<b>i.</b>	Drought insurance.	(1-1-94)
<b>j.</b>	Earthquake.	(1-1-94)
<b>k.</b>	Greenhouses - wind and hail.	(1-1-94)
<b>l.</b>	Polyurethane insulated buildings.	(1-1-94)
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<b>n.</b>	Sawmills.	(1-1-94)
<b>o.</b>	Valued business interruption.	(1-1-94)
<b>p.</b>	Woodhandlers.	(1-1-94)
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<b>06.</b>	<b>Code GL General Liability.</b>	(1-1-94)
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<b>b.</b>	Amusement parks.	(1-1-94)
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