

Dear Senators LODGE, Nonini, Burgoyne, and
Representatives WILLS, DAYLEY, Gannon:

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

IDAPA 11.05.01 - Rules Governing Alcohol Beverage Control (Fee Rule) - Temporary and Proposed
Rule (Docket No. 11-0501-1501);

IDAPA 11.10.03 - Rules Governing the Sex Offender Registry - Temporary and Proposed Rule
(Docket No. 11-1003-1501);

IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed
Rule (Docket No. 11-1101-1501);

IDAPA 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction
Officers and Adult Probation and Parole Officers - Proposed Rule (Docket No.
11-1104-1501).

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 11/23/2015. 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 12/21/2015.

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 334-4834, 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 Judiciary & Rules Committee and the House Judiciary, Rules & Administration Committee

FROM: Senior Legislative Research Analyst - Ryan Bush

DATE: November 06, 2015

SUBJECT: Idaho State Police

IDAPA 11.05.01 - Rules Governing Alcohol Beverage Control (Fee Rule) - Temporary and Proposed Rule (Docket No. 11-0501-1501)

IDAPA 11.10.03 - Rules Governing the Sex Offender Registry - Temporary and Proposed Rule (Docket No. 11-1003-1501)

IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule (Docket No. 11-1101-1501)

IDAPA 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers - Proposed Rule (Docket No. 11-1104-1501)

(1) 11.05.01 - Rules Governing Alcohol Beverage Control (Fee Rule) - Temporary and Proposed Rule (Docket No. 11-0501-1501)

The Idaho State Police (ISP) submits notice of temporary and proposed rulemaking at IDAPA 11.05.01 - Rules Governing Alcohol Beverage Control (Fee Rule). This rule change provides for growlers sold to consumers. Specifically, this rulemaking defines a growler as a refillable container, securely covered and used to transport beer or wine sold to a consumer at retail; provides for the sale of growlers by an employee of a licensed retailer for consumption off premises; and provides that a growler must be sealed at the point of sale with tamper-proof tape supplied by the Director for a fee of twenty dollars per box.

The ISP states that negotiated rulemaking was not conducted because input was sought from stakeholders. The ISP states that there is no fiscal impact associated with this rulemaking because the fee is expected to cover the cost of tape and shipping.

The temporary and proposed rulemaking appears to be within the statutory authority granted to the ISP in Section 23-932 and 23-1330, Idaho Code.

(2) 11.10.03 - Rules Governing the Sex Offender Registry - Temporary and Proposed Rule (Docket No. 11-1003-1501)

The Idaho State Police submits notice of temporary and proposed rulemaking at IDAPA 11.10.03 - Rules Governing the Sex Offender Registry - Temporary and Proposed Rule. This rule change provides a mechanism

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

for the ISP to determine what convictions in other jurisdictions are "substantially equivalent" to a conviction under Idaho law that requires a person to register as a sex offender. Specifically, this rulemaking expands the determination to those who work in or become a student in Idaho; provides for documents that may be used in a determination of substantially equivalent; and provides that a person seeking a substantially equivalent determination shall submit a completed application along with the documents used in the determination.

The ISP states that negotiated rulemaking was not conducted because there is no substantive change to the rule. There is no fiscal impact associated with this rulemaking.

The temporary and proposed rulemaking appears to be within the statutory authority granted to the ISP in Section 18-8304, Idaho Code.

(3) 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule (Docket No. 11-1101-1501)

The Idaho State Police submits notice of proposed rulemaking at IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule. This rulemaking accomplishes the following:

- (1) Revises terminology;
- (2) Makes all academies open campuses;
- (3) Removes language relating to class attendance and school directors;
- (4) Removes reference to the physical readiness test;
- (5) Adds language relating to decertification investigations; and

(6) Revises instructor and school certification rules, including procedures for high liability instructor and school endorsements, approval of formal schools and required documentation for school or course approval.

The ISP states that negotiated rulemaking was not conducted because representatives of the affected interests were involved in the drafting and approval of the rule. There is no fiscal impact associated with this rulemaking.

The proposed rulemaking appears to be within the statutory authority granted to the ISP in Section 19-5107, Idaho Code.

(4) 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers - Proposed Rule (Docket No. 11-1104-1501)

The Idaho State Police submits notice of proposed rulemaking at IDAPA 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers - Proposed Rule. This rule change updates fingerprint requirements to reflect current standards, revises terminology, provides for the disclosure of decertification information and removes reference to the physical agility test and replaces it with a firearms qualification course.

The ISP states that negotiated rulemaking was not conducted because the rule is simple in nature and representatives of the affected interests were involved in the drafting and approval of the rule. There is no fiscal impact associated with this rulemaking.

The proposed rulemaking appears to be within the statutory authority granted to the ISP in Section 19-5107, Idaho Code.

cc: Idaho State Police
Teresa Baker

**IDAPA 11 - IDAHO STATE POLICE
ALCOHOL BEVERAGE CONTROL BUREAU**

11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL

DOCKET NO. 11-0501-1501 (FEE RULE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2015.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 23-932, 23-946(b), 23-1330 and 23-1408, 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 21, 2015.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule creates a “growler” endorsement for retail alcohol licenses. A “growler” is a refillable container used to transport beer or wine that is sold to a consumer at retail and does not have a factory seal. This temporary rule defines “growler” and provides the procedures for the sale and transportation of “growlers” within the state of Idaho. Without a seal, growlers are open containers and, as such, are a violation of Section 23-505(2), Idaho Code.

This rule provides for a tamper-proof tape to be affixed to the growler at the time of the refill purchase. The tape will be available from Idaho State Police Alcohol Beverage Control, it will be tamper-proof and will be consistent for all licensees.

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

A fee will be charged to alcohol licensees that wish to sell growlers to purchase tamper-proof tape to seal a growler at the time it is filled and before it leaves the licensed premise. The tamper-proof tape will be provided by ISP Alcohol Beverage Control for twenty dollars (\$20) per box. This twenty dollar (\$20) fee will cover all expenses of ABC in procuring the tamper-proof tape and shipping it to licensees.

Licensees that choose to engage in the sale of growlers will bear the costs as a user fee as it is tied to the number of growlers that are sold by each licensee.

Each box of tamper-proof tape will contain approximately 210 three inch strips. Each growler will only require one strip of tamper-proof tape to secure the seal. Each strip of tape will cost an alcohol retailer approximately nine cents (\$.09) per growler refill.

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:

Adoption of this rule with the fee for licensees to purchase tamper-proof tape will be revenue neutral. The fee is expected to cover the cost of the tape and shipping to licensees.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the stakeholders in the industry were consulted in the drafting of this rule.

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 Capt. Russell Wheatley, Idaho State Police Alcohol Beverage Control (208) 884-7060 or abc@isp.idaho.gov and reference Docket Number 11-0501-1501.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 28th Day of August, 2015.

Colonel Ralph W. Powell, Director
Idaho State Police
700 S. Stratford Dr., Meridian, ID 83642
Phone: (208) 884-7003/ Fax: (208) 884-7090

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF FEE DOCKET NO. 11-0501-1501
(Only Those Sections With Amendments Are Shown.)**

015. GROWLERS.

01. Growler Defined. A growler is a refillable container, securely-covered, between seven hundred fifty (750) ml/twenty-five point three (25.3) ounces and one (1) gallon/one hundred twenty-eight (128) ounces, used to transport beer or wine that has been sold to a consumer at retail. (10-1-15)T

02. Filling of Growlers. A growler may be filled by a retailer licensed for the sale of beer or wine pursuant to Section 23-1010 or 23-1307, Idaho Code, a winery licensed pursuant to Section 23-1307, Idaho Code, or brewery licensed pursuant to Section 23-1003(d), or 23-1003(e), Idaho Code, that has obtained a growler endorsement on the face of the license issued by the Director. A growler must be filled by an employee of a licensed retailer, winery, or brewery pursuant to Section 23-943, Idaho Code, and shall not be filled by members of the public. A violation of this rule, federal or state law, or local code or ordinance may subject the licensee to administrative sanctions pursuant to Sections 23-933, 23-1037, and 23-1331, Idaho Code. (10-1-15)T

03. Sales and Consumption of Growlers. Growler sales are for consumption off the premises of a retailer, winery, or brewery pursuant to Sections 23-1010, 23-1307, 23-1003(d), and 23-1003(e), Idaho Code. Consumption of the content of a growler on a licensed premises is unlawful. (10-1-15)T

04. Security of Growler Contents. A growler is not a factory sealed container. A growler must be sealed at the point of sale with tamper-proof tape. Tamper-proof tape shall be in the form of a label prescribed and supplied by the Director for a fee of twenty dollars (\$20) per box. This seal must be affixed to the growler and overlap at least one (1) side of the cap or seal of the growler. A growler that has an opening other than what can be sealed with a cap and tamper-proof tape is considered an "open container" pursuant to Section 23-505, Idaho Code. A violation of this rule, federal or state law, or local code or ordinance may subject the licensee to administrative sanctions pursuant to Sections 23-933, 23-1037, and 23-1331, Idaho Code. (10-1-15)T

05. Fees. The Director shall deposit assessed fees into the alcohol beverage control fund established in Section 23-940, Idaho Code. The Alcohol Beverage Control Bureau may, as deemed necessary, expend moneys to cover the costs for the uses identified in Section 015.04 of these rules. (10-1-15)T

0156. -- 020. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho State Police

Agency Contact: Teresa Baker Phone: 208.884.7122

Date: July 15, 2015

IDAPA, Chapter and Title Number and Chapter Name:

11.05.01. – Rules Governing Alcohol Beverage Control

Fee Rule Status: X Proposed X Temporary

Rulemaking Docket Number: 11-0501-1501

STATEMENT OF ECONOMIC IMPACT:

The rule defines the term “growler” and creates a requirement that retail alcohol establishments that engage in the sale of growlers affix a tamperproof tape to each growler sold. To ensure the tape is tamperproof and is consistent for all alcohol licensees, Idaho State Police Alcohol Beverage Control will procure the tape. Alcohol licensees that wish to sell growlers will purchase this tape from ABC for \$20 per box. This \$20 fee will cover all expenses of ABC procuring the tamperproof tape and shipping it to licensees around the state.

Licensees that choose to engage in the sale of growlers will bear the costs as a “user” type fee as it is tied to the number of “growlers” that are sold by each licensee.

Each box of tamperproof tape will contain approximately 210 three inch strips. Each growler will only require one strip of tamperproof tape. Each strip of tape will cost an alcohol retailer approximately nine cents (.09) per growler.

Alcohol Beverage Control licenses 163 establishments that currently hold an endorsement to sell growlers, however this number is expected to increase. Many different types of establishments sell growlers for beer or wine including grocery stores, gas stations, restaurants, bars, breweries and wineries.

At a minimum each licensee will need to purchase one box of tamperproof tape. It is expected that some licensees will require additional boxes of tamperproof tape based on the number of sales. Below is an estimate of the revenue that will be generated based upon the number of current licensees purchasing one, two, or three boxes of tamperproof tape.

Number of Boxes	Number of Current Licensees	Fee per Box	Total Revenue
1	163	\$20.00	\$3,260
2	163	\$20.00	\$6,520
3	163	\$20.00	\$9,780

IDAPA 11 - IDAHO STATE POLICE

11.10.03 - RULES GOVERNING THE SEX OFFENDER REGISTRY

DOCKET NO. 11-1003-1501

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2015.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 18-8301 through 18-8331, 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 21, 2015.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The amendment to this rule will provide a mechanism for Idaho State Police to provide a determination as to what convictions in other jurisdictions are “substantially equivalent” to a conviction under Idaho’s statutes that require a person to be registered as a sex offender in Idaho. This determination will be made before a person moves to, begins working in or becomes a student in Idaho.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule is necessary to comply with the Idaho Supreme Court’s opinion in Doe v. State of Idaho, Docket No. 42372 (June 30, 2015).

FEE SUMMARY: No fees are imposed by 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:

There is no negative fiscal impact on the state general fund or dedicated funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because there was no substantive change to the rule and no new federal regulations were adopted.

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 temporary and proposed rule, contact Dawn Peck, Manager, Bureau of Criminal Identification, (208) 884-7130.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 28th Day of August, 2015.

Colonel Ralph W. Powell, Director
Idaho State Police
700 S. Stratford Dr., Meridian, ID 83642
Phone: (208) 884-7003/ Fax: (208) 884-7090

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 11-1003-1501
(Only Those Sections With Amendments Are Shown.)**

010. DEFINITIONS.

The terms defined in Section 67-3001, Idaho Code, will have the same meaning in these rules. In addition, the following terms shall have the meanings set forth below: (3-29-12)

- 01. Bureau.** “Bureau” means the Bureau of Criminal Identification, Idaho State Police. (3-18-99)
- 02. Central Registry.** “Central Registry” means the state-level records system containing information, photographs and fingerprints relating to persons required to register as a sex offender under Title 18, Chapters 83 and 84, Idaho Code. (3-18-99)
- 03. Department.** “Department” means the Idaho State Police. (3-18-99)
- 04. Director.** “Director” means the director of the Idaho State Police. (3-18-99)
- 05. Substantially Equivalent ~~or Similar~~.** “Substantially Equivalent” means any sex offense related crime, regardless of whether a felony or misdemeanor, that consists of similar elements defined in Title 18 of the Idaho Criminal Code. It does not mean exactly the same, nor exactly identical to. ~~(3-29-12)~~(9-1-15)T
- 06. Working Days.** “Working Days” means each day except Saturday, Sunday, or a legal state holiday. (3-18-99)

(BREAK IN CONTINUITY OF SECTIONS)

012. SEX OFFENDER CENTRAL REGISTRY -- ADMINISTRATION.

- 01. Central Registry Established.** Pursuant to Title 18, Chapter 83, Idaho Code, the department establishes a sex offender central registry in the bureau of criminal identification. The bureau is responsible for administration of the central registry pursuant to the requirements set forth in Title 18, Chapters 83 and 84, Idaho Code and these rules. (3-18-99)
- 02. Forms.** The following forms and procedures will be used to provide notice to and collect information from persons required to register as a sex offender pursuant to Title 18, Chapters 83 and 84, Idaho Code. (3-29-12)
- a.** “Idaho Sex Offender Registry Form.” This three (3) page form notifies an offender of register requirements and collects from an offender information required for registration or any change of address or status, as required by statute. (3-29-12)
- b.** “Idaho Sex Offender Registry Homeless - Location Verification Form.” This one (1) page form is used during weekly reporting to collect from an offender the information required when the offender does not provide a physical address at the time of registration. (3-29-12)

03. Registration Location. An offender who is required to register either as an adult under Title 18, Chapter 83, Idaho Code, or as a juvenile under Title 18, Chapter 84, Idaho Code, must notify and register at the sheriff's office in the county where the offender's primary address is located. (3-29-12)

04. Photographs and Fingerprints. Whenever the Idaho Sex Offender Registry Form is used to register an offender, it will be submitted to the central registry with the offender's photograph, fingerprints, and palmprints. (3-29-12)

a. An offender's photograph will be in color. The sheriff will forward a copy of the photograph with tagging information so it may easily be located by registry staff in the department of transportation photo database. Photographs submitted to the central registry will be a copy of the new photographs taken at the time of each registration. From collected registration fees, the sheriff will pay to the state the cost of photography materials lawfully required by a state agency or department. (3-29-12)

b. The sheriff will also submit the required fingerprints on the federal bureau of investigation form FD-249. For each registrant, the sheriff will forward one (1) FBI fingerprint card with each registration Form. (3-29-12)

c. The sheriff will also submit the required palmprints on the federal bureau of investigation form. For each registrant, the sheriff will forward one (1) set of FBI palmprint cards with each registration form, unless a set was previously submitted. (3-29-12)

05. Notification to Local Law Enforcement. Lists of all offenders registered within a county are available on the sex offender registry web site located at http://isp.idaho.gov/sor_id/. The bureau will notify the appropriate county law enforcement agency with jurisdiction any time the bureau becomes aware of a change of status or change of residence of a registered sex offender; and of a registered offender's intent to reside in an agency's jurisdiction. Whenever practical, the bureau will provide notification using the Idaho law enforcement telecommunication system (ILETS). (3-29-12)

06. Notification to Other Jurisdictions. Within one (1) working day of receiving notification that a registered sex offender is moving to another jurisdiction, the bureau will notify the receiving jurisdiction's designated sex offender registration agency of the move by mail or electronic means. (3-29-12)

07. Expungement of Central Registry Information. (3-18-99)

a. Upon receipt of a certified copy of a death certificate recording the death of a person registered with the central registry, the bureau will expunge all records concerning the person from the central registry. (3-18-99)

b. Upon receipt of a duly attested copy of a pardon issued by the governor of the jurisdiction where the conviction was entered and then reported to the central registry, the bureau will expunge all records concerning the conviction from the central registry. If the pardoned person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. (3-29-12)

c. Upon receipt of a duly attested document from a court clerk that a conviction previously reported to the central registry has been reversed by the court of conviction, the bureau will expunge all records concerning the conviction from the central registry, provided that the person has no other conviction requiring registration. (3-29-12)

i. Expungement of a record will not occur in cases where a court has ordered a dismissal for a withheld judgment. (3-29-12)

d. Pursuant to Section 18-8310(5), Idaho Code, if a person is exempted from the registration requirement by court order, the bureau will expunge all records and references concerning the offender from the central registry. (3-29-12)

08. Determination of Substantially Equivalent or Similar Crime. (3-29-12)

a. A person convicted of a sex offense in another jurisdiction and who moves to, works in, or becomes a student in Idaho may be required to register as a sex offender in Idaho pursuant to Title 18, Chapters 83 or 84, Idaho Code. ~~(3-29-12)~~(9-1-15)T

b. The bureau shall determine if a person's out-of-jurisdiction conviction is substantially equivalent or similar to an Idaho sex related offense, as defined by Idaho's Criminal Code, for the purposes of requiring a person to register in Idaho. (3-29-12)

c. The bureau may make all substantially equivalent determinations using the following documents: (9-1-15)T

i. Police Report (of the incident related to the sex offense); (9-1-15)T

ii. Indictment or Information or other lawful charging document; (9-1-15)T

iii. Judgment or Order (of sex-offense conviction); (9-1-15)T

iv. Psychosexual Evaluation Report; and (9-1-15)T

v. Order of Probation. (9-1-15)T

d. If a person seeks a substantially equivalent determination by the bureau before moving to, working in, or becoming a student in Idaho, that person shall provide a completed application and attach certified copies of all above-named documents to the bureau. If all documents are not provided as required by this rule, the application and any documents provided shall be returned to the applicant. (9-1-15)T

e. The bureau shall issue a substantially equivalent determination within sixty (60) days upon receipt of a completed application and the required documents. (9-1-15)T

ef. The bureau's decision determination is ~~an agency action~~ a declaratory ruling as defined by Chapter 52, Title 67, Idaho Code. ~~(3-29-12)~~(9-1-15)T

ig. Judicial review of the bureau's decision determination shall be made in accordance with Chapter 52, Title 67, Idaho Code. ~~(3-29-12)~~(9-1-15)T

IDAPA 11 - IDAHO STATE POLICE

11.11.01 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-1501

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 Section 19-5107, 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 21, 2015.

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:

Language modified to encompass all disciplines POST now trains; "shall" changed to "will" and "must" pursuant to direction in Rule Writer's Manual; makes all academies open campus, greatly enhancing law enforcement agencies' ability to hire single parents who cannot put their children in daycare for ten weeks while they attend a live-in academy; language in reference to attending every academy class and not being late to class is deleted, as those issues are addressed in policy and in the disciplinary matrix; fingerprint requirements were updated to reflect current Bureau of Criminal Identification requirements; the Physical Readiness Testing was deleted from the challenge requirements to enhance agencies' ability to hire retired officers from other states; no certification is ever reactivated, so the language was corrected to reflect recertification; added decertification investigation language where missing to make the language identical to other similar sections; vo-tech programs are now called "college programs," so language was updated to reflect that; language in reference to being able to challenge (Subsection 176.05) was corrected from "may" to "will"; revamps the instructor and school certification rules to decrease the amount of regulation and increase the amount of support offered by POST to improve training.

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 representatives of the affected interests were involved in the drafting and approval of the rule.

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 Victor McCraw at (208) 884-7251.

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 28, 2015.

DATED this 28th Day of August, 2015.

Victor R. McCraw
POST Division Administrator
Idaho State Police/Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642
Phone (208) 884-7251 / Fax (208) 884-7295

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1101-1501
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

- 01. Act.** Title 19, Chapter 51, of the Idaho Code. (4-5-00)
- 02. Adult Probation and Parole Officer.** Any employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. (3-30-07)
- 03. Agency.** A law enforcement agency which is a part of or administered by the state or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; a juvenile detention center; a juvenile probation department; the Idaho Department of Correction; or a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. (4-2-08)
- 04. Agency Head.** A chief of police of a city, sheriff of a county, or chief administrator of any law enforcement agency of the state of Idaho or any political subdivision thereof who is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; the chief administrator of a juvenile detention center; the chief administrator of a juvenile probation department; the director of the Idaho Department of Correction; or the chief administrator of a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. (4-2-08)
- 05. Applicant.** Any person applying to participate in a POST training program or applying for POST certification. (4-2-08)
- 06. Basic Adult Probation and Parole Academy.** A basic course of instruction for Adult Probation and Parole Officers as recognized by POST Council. (4-2-08)
- 07. Basic Correction Academy.** A basic course of instruction for Correction Officers as recognized by POST Council. (4-2-08)
- 08. Basic Detention Academy.** A basic course of instruction for Detention Officers as recognized by POST Council. (4-2-08)
- 09. Basic Juvenile Detention Academy.** A basic course of instruction for Juvenile Detention Officers as recognized by POST Council. (4-2-08)
- 10. Basic Juvenile Probation Academy.** A basic course of instruction for Juvenile Probation Officers as recognized by POST Council. (4-2-08)
- 11. Basic Patrol Academy.** A basic course of instruction for Patrol Officers as recognized by POST Council. (4-2-08)
- 12. College Credit.** A unit of work towards a baccalaureate or vocational degree accepted by a college or university of higher education accredited by the Northwest Association of Schools and Colleges or other POST-accepted U.S. regional accrediting agency. (3-18-15)
- 13. Correction Officer.** Any employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility. (3-30-07)

14. Correction Standards and Training Council. An advisory group to the POST Council that is comprised of members from academia and law enforcement agencies. The purpose of the Correction Standards and Training Council is to advise POST Council in the planning, development, and operation of the Basic Correction Academy and the Basic Adult Probation and Parole Academy. (4-2-08)

15. Council. The Idaho Peace Officer Standards and Training Council. (4-2-08)

16. County Detention Officer. An employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates. (4-5-00)

17. Crime of Deceit. Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18-1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18-2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18-2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18-2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18-2601 et seq. (Falsifying Evidence -- Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds -- Drawing Check With Insufficient Funds -- Prima Facie Evidence of Intent -- Standing of Person Having Acquired Rights -- Probation Conditions), 18-3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating Written Instruments), Section 18-3601 et seq. (Forgery), Sections 18-4616 (Defacing Marks on Logs or Lumber), 18-4617 (Stealing Rides on Trains), 18-4621 (Stealing Electric Current -- Tampering with Meters), 18-4622 (Stealing Electric Current -- Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Willful Concealment of Goods, Wares or Merchandise -- Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18-4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment -- Penalty -- Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49-231 (Farm Implements -- Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate -- Stolen Cars -- Destroying or Altering Engine or Decal Number -- Use of Fictitious Name -- Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction. (4-2-08)

18. Direction. Direction, at its broadest term, allows an employing agency to utilize a Level II reserve officer to work under the immediate presence and direction of a full-time peace officer of the same agency. This does not allow a Level II reserve officer to operate alone in his official capacity. He ~~shall~~ **must** be under direct observation and control of the agency's full-time peace officer. (3-29-12)()

19. Field Training. Training in which an individual receives formal instruction on the job for special and defined purposes. (7-1-93)

20. Full Time. Employment of one hundred sixty (160) hours or more per month for ninety (90) consecutive calendar days. (4-2-08)

21. **In-Service Training.** Training designed to refresh or add to an individual's capabilities to do the task to which they are or may be assigned. (7-1-93)
22. **Juvenile Detention Center.** A juvenile detention facility that is part of or administered by the county or any political subdivision thereof and is responsible for the safety, care, protection, and monitoring of juvenile offenders. (4-2-08)
23. **Juvenile Detention Officer.** Any employee of a juvenile detention center who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center. (4-2-08)
24. **Juvenile Probation Officer.** Any employee of a juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. (4-2-08)
25. **Juvenile Training Council.** An advisory group to the POST Council that is composed of the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, a county Clerk, and a county Sheriff. The purpose of the Juvenile Training Council is to advise POST Council in the planning, development, and operation of the Juvenile Detention and Juvenile Probation Academies. (4-2-08)
26. **Law Enforcement Profession.** As used in agreements authorized pursuant to Section 19-5112, Idaho Code, means an employee of a police or law enforcement agency that is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; an employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates; an employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center; an employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders; an employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility; or an employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. (4-2-08)
27. **Manual.** This book of Rules as adopted by the Idaho Peace Officer Standards and Training Council. (4-5-00)
28. **Part Time.** Employment of less than one hundred sixty (160) hours per month for ninety (90) consecutive calendar days. (4-2-08)
29. **Part-Time Juvenile Detention Officer.** Any employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center, and does not meet the definition of "employee" as defined in Section 59-1302, Idaho Code. (4-2-08)
30. **Peace Officer.** Any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho. (4-5-00)
31. **POST.** The Idaho Peace Officer Standards and Training Program. (7-1-93)
32. **POST Basic Training Academy.** The Basic Adult Probation and Parole Academy, the Basic Correction Academy, the Basic Detention Academy, the Basic Juvenile Detention Academy, the Basic Juvenile

Probation Academy, or the Basic Patrol Academy. (4-2-08)

33. POST Certified Instructor. *Any person certified by the Idaho POST Council as being qualified to instruct or assess students in a course of instruction which meets POST standards for certification or training credit.* ()

34. Prosecutor. A city prosecuting attorney, city assistant prosecuting attorney, county prosecuting attorney, county deputy prosecuting attorney, attorney general, deputy attorney general, United States attorney, or assistant United States attorney. (4-2-03)

34. Qualified Instructor. *Any person certified by the Idaho POST Council as being competent to teach in a Council-approved school.* (4-2-08)

35. Reserve Peace Officer. An individual assigned by an agency to perform the duties of a peace officer on a part-time basis. All reserve officers *shall must* be under supervision as set forth in these rules unless they hold a current Part-Time Basic certificate. (4-2-08)()

36. School. Any school, college, university, academy, or local training program which offers law enforcement training and includes within its meaning the combination of course curriculum, instructors and facilities, or any training session as certified by POST. (7-1-93)

37. School Director or Coordinator. An individual charged with the responsibility of conducting a training school under the provisions of the Act. (7-1-93)

38. Specification. A description of a requirement supplementing a section of the Rules. (7-1-93)

39. Supervision. Supervision allows the employing agency to utilize a Level I reserve officer to work by himself without the immediate presence or direction of a full-time peace officer, but acting under the overall on-duty supervision of an on-duty, full-time peace officer. This may allow a Level I reserve officer to work alone in his jurisdiction, without immediate oversight of an agency full-time peace officer, as long as there were another full-time peace officer of the agency working at the same time to provide supervision of the Level I reserve officer's activities. (3-29-12)

40. Temporary. Employment of less than ninety (90) consecutive calendar days. (7-1-93)

41. Trainee. An officer participating in any POST approved training program. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

041. THE RECORDS SYSTEM.

01. Training File. The Idaho Peace Officer Standards and Training Council will maintain a training file on all Idaho law enforcement officers. Officer certifications granted and *certified POST-approved* training schools attended by officers will be recorded in these files. (4-5-00)()

02. Notification of Employment/Termination. The agency head of any agency whose officers are required to attend a POST Basic Training Academy *shall must* notify the Council of all presently employed officers every January and July. The names of all officers hired after submission of the original list must be submitted to the Council within fifteen (15) days of employment. The termination of an officer's employment must also be relayed to the Council within fifteen (15) days of such action on an appropriate form designated by the Council. (4-2-08)()

03. Training Record. A training record listing all *certified POST-approved* courses an officer has completed, the hours credit, and other pertinent data will be kept along with the officer's file. (4-5-00)()

04. Other Law Enforcement Personnel. *A file on other law enforcement personnel may be maintained.*

~~This file will contain records for other law enforcement persons who successfully complete POST-certified courses.~~
(4-5-00)

~~054.~~ **Instructors.** Names of certified instructors will be maintained. (4-5-00)

~~065.~~ **Instructors and Schools.** A list of approved instructors and schools will be maintained. (4-5-00)

042. PROCEDURE.

01. Application. Each individual officer may apply for certification when they have met the requirements. When they are certified by the Council, this is entered into their file. (Refer to “Certification of Peace, Detention, Juvenile Detention, and Juvenile Probation Officers.”) (4-2-08)

02. Roster. School coordinators will furnish to the Council a “Course Attendance Roster” on the appropriate form designated by the Council upon the completion of each certified training school. (Refer to “~~School Formation and Certification~~ Required Documentation for School or Course Approval.”) (4-2-08)()

(BREAK IN CONTINUITY OF SECTIONS)

056. CRIMINAL RECORD.

01. Fingerprints. The applicant ~~shall~~ must be fingerprinted on ~~two (2) copies of~~ the standard FBI Applicant fingerprint ~~form card~~, and a search made of local, state, and national fingerprint files to disclose any criminal record. The original copies of all records check results ~~shall~~ must be retained by the POST Council. (4-2-03)()

02. Conviction. The term “conviction” ~~shall~~ includes: (4-2-03)()

a. Any conviction in a federal, tribal, state, county, or municipal court; (3-15-02)

b. A voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant’s appearance in court as final disposition; (3-15-02)

c. The payment of a fine; (3-15-02)

d. A plea of guilty, nolo contendere; or (3-15-02)

e. A finding of guilt, notwithstanding the form of judgment or withheld judgment, regardless of whether the sentence is imposed, suspended, deferred, or withheld, and regardless of whether the plea or conviction is set aside or withdrawn, or the case or charge is dismissed or reduced, or the record expunged under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the setting aside of the plea or conviction, or dismissal or reduction of the case or charge, or expungement of the record is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the plea, finding of guilt, or conviction. (3-29-12)

03. Misdemeanor Conviction. A misdemeanor conviction of any federal, state, or local crime may be grounds for rejection of an applicant, subject to the following provisions: (3-20-14)

a. An applicant ~~shall~~ must be rejected who has been convicted of any misdemeanor sex crime or crime of deceit, unless the conviction occurred more than five (5) years prior to application and the applicant’s agency head files a written request for review with the POST Council. In the case of a willful concealment or petit theft conviction, the applicant may be accepted upon approval of the POST Division Administrator, and the Division Administrator ~~shall~~ will have the discretion to refer the application to the POST Council. In all other cases, the POST Council ~~shall~~ must review the application and determine whether the applicant ~~shall~~ will be certifiable in the State of Idaho. (3-20-14)()

b. An applicant ~~shall~~ **must** be rejected who has been convicted of one (1) or more misdemeanor DUI offenses within the two (2) years immediately preceding application. No waivers to this rule ~~shall~~ **will** be granted by the POST Council. ~~(3-20-14)~~()

c. An applicant ~~shall~~ **must** be rejected who has been convicted of two (2) or more misdemeanor DUI offenses within the five (5) years immediately preceding application. No waivers to this rule ~~shall~~ **will** be granted by the POST Council. ~~(3-20-14)~~()

d. An applicant who is not subject to the provisions of subsections (b) and (c) above may be rejected if the applicant has been convicted of one (1) or more misdemeanor DUI offenses within ten (10) years prior to application. Such an applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The POST Division Administrator ~~shall~~ **will** have the discretion to refer the application to the POST Council. This rule is not a basis for rejection of an applicant if the conviction occurred ten (10) or more years prior to application. ~~(3-20-14)~~()

e. An applicant may be rejected who has been convicted of any other misdemeanor offense within the two (2) years immediately preceding application. If the misdemeanor conviction occurred within the two (2) years immediately preceding application, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The Division Administrator ~~shall~~ **will** have the discretion to refer the application to the POST Council. ~~(3-20-14)~~()

f. An applicant may be rejected who has been convicted of any other misdemeanor offense two (2) or more years but less than ten (10) years prior to application. If the misdemeanor conviction occurred two (2) or more years but less than ten (10) years prior to application, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The POST Division Administrator ~~shall~~ **will** have the discretion to refer the application to the POST Council. This rule is not a basis for rejection of an applicant if the conviction occurred ten (10) or more years prior to application. ~~(3-20-14)~~()

g. Any misdemeanor conviction prosecuted pursuant to Title 18, Chapter 15, Idaho Code, or a comparable statute of another state or country, ~~shall~~ **will** not be a basis for rejection of an applicant. ~~(3-20-14)~~()

04. Felony Conviction. An applicant ~~shall~~ **must** be rejected who has been convicted of any felony crime, the punishment for which could have been imprisonment in a federal or state penal institution, unless the felony conviction occurred before the applicant was eighteen (18) years of age and ten (10) or more years prior to application. If the conviction occurred before the applicant was eighteen (18) years of age and ten (10) or more years prior to application, the applicant may be accepted upon approval of the POST Division Administrator, provided the applicant's agency head, with knowledge of the facts and circumstances concerning the offense or violation, recommends approval. The POST Division Administrator ~~shall~~ **will** have the discretion to refer the application to the POST Council. For the purpose of this rule, a felony conviction ~~shall~~ **will** be considered a felony conviction regardless of whether the conviction is later reduced to a misdemeanor conviction under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the reduction is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the felony conviction. No waivers to this rule ~~shall~~ **will** be granted by the POST Council. ~~(3-20-14)~~()

(BREAK IN CONTINUITY OF SECTIONS)

071. BASIC TRAINING ACADEMY.

01. Begin Academy Within Six (6) Months of Appointment. Every ~~peace and detention~~ officer ~~shall~~ **must** begin the respective POST Basic Training Academy within six (6) months from the date of their appointment as a full-time officer. Every ~~peace, detention, juvenile detention, and juvenile probation~~ officer ~~shall~~ **must** successfully

complete the respective POST Basic Training Academy, including the field training portion, within twelve (12) months from the date of their appointment as a full-time officer. This time period includes probationary time.

(4-7-11)()

~~01. **Closed Campus.** The POST Basic Patrol, Juvenile Detention, and Juvenile Probation Training Academies shall operate as a closed campus Monday through Thursday. The POST Division Administrator may consider an exemption to this requirement in the case of a documented personal hardship for the applicant where no other reasonable alternative exists and provided the applicant's agency head files a written request for review with the POST Division Administrator. A trainee granted a hardship exemption shall be required to attend all mandatory classes, and shall not be late to any class. Unauthorized lateness to or absence from any class shall be grounds for revocation of the hardship exemption by the POST Division Administrator. The POST Council may consider an exemption to this requirement on a case-by-case basis for a scheduled POST Basic Patrol, Juvenile Detention, or Juvenile Probation Training Academy.~~

(4-7-11)

~~02. **POST Basic Misdemeanor Probation Academy.** The POST Basic Misdemeanor Probation Academy may operate as a closed campus depending upon the availability of POST resources.~~

(3-29-12)

~~03. **Open Campus.** All other POST Basic Training Academies shall operate as an open campus.~~

(4-2-08)

~~04. **Attendance.** Attendance shall be required of each trainee at all classes in the Basic Training Academy.~~

(3-29-12)

~~05. **Completion.** A trainee shall must successfully complete the Basic Training Academy within six (6) months of the date they enroll in such course. In a case of delay of more than six (6) months, the entire course shall must be repeated.~~

(4-7-11)()

~~06. **Field Training.** The field training portion shall must be completed to be eligible for certification.~~

(4-7-11)()

(BREAK IN CONTINUITY OF SECTIONS)

096. LAPSE OF PEACE OFFICER CERTIFICATION.

The certification of any peace officer shall will be considered lapsed if the officer does not serve as a peace officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified peace officer who remains in an administrative, jail, communications, or civil division duty assignment with a police or law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof or in a duty assignment as a tribal police officer with a federally recognized Indian tribe within Idaho and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision shall will retain their POST certification provided they satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours per year. The three-year period provided herein shall will be tolled during any time period that a peace officer is the subject of a POST decertification investigation and is no longer employed in law enforcement.

(3-21-12)()

01. Three to Five Years. A peace officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to reactivate certification shall be recertified must meet the following POST requirements:

(3-21-12)()

- a. Submit a POST Certification Patrol Challenge Packet; (4-2-03)
- b. Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- c. Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)

- d. Pass the following tests administered by a POST Training Specialist: (4-2-03)
- i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 101.02.b.; (3-21-12)
- ii. The POST Firearms Qualification Course; and (~~4-2-03~~)()
- ~~iii. The POST Physical Readiness Test; and~~ (~~3-21-12~~)
- e. Satisfy the probationary period requirement of Section 065. (4-2-08)
- 02. Over Five Years.** A peace officer who has been out of full-time law enforcement status for over five (5) years ~~shall~~ **must** attend the POST Basic Patrol Academy to ~~reactivate certification~~ **be recertified**. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. This evidence ~~shall~~ **must** be submitted with a POST Certification Patrol Challenge Packet. Upon receiving a waiver, the officer ~~shall~~ **must** meet the following POST requirements: (~~3-21-12~~)()
- a. Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- b. Attend an approved course of study in Idaho law and pass the POST Idaho law exam; (4-2-03)
- c. Attend and pass Idaho POST-certified courses in Emergency Vehicle Operation, Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)
- d. Pass the following tests administered by a POST Training Specialist: (4-2-03)
- i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 101.02.b.; (3-21-12)
- ii. The POST Firearms Qualification Course; and (~~4-2-03~~)()
- ~~iii. The POST Physical Readiness Test; and~~ (~~3-21-12~~)
- e. Satisfy the probationary period requirement of Section 065. (4-2-08)
- 03. Over Eight Years.** A peace officer who has been out of full-time law enforcement status for over eight (8) years ~~shall~~ **must** attend the POST Basic Patrol Academy to be recertified. No waiver of this requirement ~~shall~~ **will** be granted by the Council. (~~3-21-12~~)()
- 04. Exception.** The provisions of Subsections 096.01 through 096.03 ~~shall~~ **do** not apply to officers holding a part-time basic certificate who satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours per year within the law enforcement profession. (~~3-21-12~~)()

(BREAK IN CONTINUITY OF SECTIONS)

101. THE BASIC AND PART-TIME BASIC CERTIFICATE.

In addition to the requirements set forth in Section 098 of these rules, the requirements in Section 101 are necessary for award of the basic certificate and the part-time basic certificate. (3-21-12)

01. Probation. The applicant ~~shall~~ **must** have satisfactorily completed at least a six (6) month probationary period, which may include basic patrol academy time. The probationary period may be extended by the appointing agency which could delay certification until the probationary period is satisfactorily completed. This six

(6) months' time ~~shall~~ **must** be continuous with the agency the officer is appointed to when applying for certification. The probationary period ~~shall~~ **must** not extend over one (1) year for certification purposes. ~~(4-2-03)~~()

02. Basic Training. The applicant ~~shall~~ **must** have satisfactorily completed: ~~(4-2-03)~~()

a. The POST Basic Patrol Academy as required by the Council in Section 071; or (4-2-03)

b. Be a graduate of a college law enforcement program, the curriculum of which has been certified by the Council as being equivalent to the POST Basic Patrol Academy, and ~~shall~~ **must** have passed the POST patrol certification examination approved by the Council. The applicant ~~shall~~ **will** be allowed two (2) attempts to pass the examination. The attempts ~~shall~~ **must** be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he ~~shall~~ **must** successfully complete the POST Basic Patrol Academy to be certified. ~~(3-21-12)~~()

03. Field Training. The applicant ~~shall~~ **must** have satisfactorily completed forty (40) hours of POST-approved field training. ~~(4-2-03)~~()

04. College Law Enforcement Program Graduates. Graduates from Idaho POST-certified college law enforcement programs ~~shall~~ **must** also comply with the requirements of Subsection 073.02. ~~(3-21-12)~~()

05. Patrol and Detention College Law Enforcement Program or POST Academy Graduates. An applicant who is appointed to a peace officer position from three (3) to five (5) years after satisfactorily completing both the patrol and detention officer training through an Idaho POST-certified college law enforcement program or the Idaho POST Academy, ~~shall~~ **will** be eligible for peace officer certification in Idaho without attending the POST Basic Patrol Academy, provided the officer: ~~(3-21-12)~~()

a. Was appointed to a county detention officer position in Idaho within three (3) years from graduating from the college law enforcement program or POST Academy; (3-21-12)

b. Possesses detention officer certification from Idaho; (4-2-08)

c. Submits a POST Certification Patrol Challenge Packet; (4-2-08)

d. Discloses information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. ()

~~d.e.~~ Attends an approved course of study in Idaho law and passes the POST Idaho law exam; (4-2-08)

~~e.f.~~ Passes the following tests administered by a POST Training Specialist: (4-2-08)

i. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 101.02.b.; (4-2-08)

ii. The POST Firearms Qualification Course; ~~and~~ ~~(4-2-08)~~()

~~iii.~~ ~~The POST Physical Readiness Test; and~~ ~~(3-21-12)~~

~~f.g.~~ Satisfies the probationary period requirement of Section 065. (4-2-08)

102. CHALLENGING THE BASIC PATROL ACADEMY.

Any peace officer presently appointed by a duly constituted Idaho law enforcement agency who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as a peace officer or a student who has satisfactorily completed a Basic Police Academy equivalent to the Idaho POST Basic Patrol Academy within the last three (3) years may be eligible for certification in the state of Idaho without attending the Basic Patrol Academy, provided the officer: (3-29-10)

01. Submission of Challenge Packet. Submits a POST Certification Patrol Challenge Packet to POST

Council, which ~~shall~~ **must** include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience; ~~(3-21-12)~~()

02. Discloses Decertification Information. Discloses information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)

03. Law Course Attendance. Attends an approved course of study in Idaho law and passes the POST Idaho law exam; (4-2-03)

04. Passes Required Tests. Passes the following tests administered by a POST Training Specialist: (4-2-03)

a. The POST patrol certification examination approved by the Council, conducted in the manner set forth in Subsection 101.02.b.; (3-21-12)

b. The POST Firearms Qualification Course; and (4-2-03)

~~**c.** The POST Physical Readiness Test.~~ ~~(3-21-12)~~

05. Completes Probationary Period. Completes his probationary period as required by Subsection 101.01. (3-21-12)

(BREAK IN CONTINUITY OF SECTIONS)

171. LAPSE OF DETENTION OFFICER CERTIFICATION.

The certification of any county detention officer will be considered lapsed if the officer does not serve as a county detention officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified county detention officer who remains in an administrative, patrol, communications, or civil division duty assignment with a police or law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision will retain their POST certification provided they satisfy the continuing training requirements of Sections 360 through 363 and work at least one hundred twenty (120) hours per year. The three-year period provided herein ~~shall~~ **will** be tolled during any time period that a county detention officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. ~~(3-29-10)~~()

01. Three to Five Years. A county detention officer who has been out of full-time law enforcement status from three (3) to five (5) years and who wants to ~~reactivate certification~~ **be recertified** must meet the following POST requirements: ~~(3-29-10)~~()

a. Submit a POST Certification Detention Challenge Packet; (4-2-03)

b. Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)

c. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)

d. Pass the following tests administered by a POST Training Specialist: (4-2-03)

i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.c.; (4-2-08)

ii. The POST Firearms Qualification Course; **and** ~~(4-2-03)~~()

iii. The POST Physical Fitness Test Battery; and (4-2-03)

e. Satisfy the probationary period requirement of Section 065. (4-2-08)

02. Over Five Years. A county detention officer who has been out of full-time law enforcement status for over five (5) years must attend the POST Basic Detention Academy to ~~reactivate certification~~ **be recertified**. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time law enforcement, the officer was engaged in an occupation requiring law enforcement training, skill, and experience. This evidence must be submitted with a POST Certification Detention Challenge Packet. Upon receiving a waiver, the officer must meet the following POST requirements: ~~(3-29-10)~~()

a. Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)

b. Attend an approved course of study in Idaho detention legal issues and pass the POST Idaho detention legal issues exam; (4-2-03)

c. Attend and pass Idaho POST-certified courses in Arrest Techniques, Handgun Retention, and Practical Problems; (4-2-03)

d. Pass the following tests administered by a POST Training Specialist: (4-2-03)

i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.c.; (4-2-08)

ii. The POST Firearms Qualification Course; ~~and~~ (4-6-05)()

iii. The POST Physical Fitness Test Battery; and (4-6-05)

e. Satisfy the probationary period requirement of Section 065. (4-2-08)

03. Over Eight Years. A county detention officer who has been out of full-time law enforcement status for over eight (8) years must attend the POST Basic Detention Academy to be recertified. No waiver of this requirement will be granted by the Council. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

176. THE LEVEL I CERTIFICATE.

In addition to the requirements set forth in Section 173 of these rules, the requirements in Section 176 are necessary for award of the Level I Certificate. (4-2-03)

01. Probation. The applicant ~~shall~~ **must** have satisfactorily completed at least a six (6) month probationary period, which may include basic detention academy time. The probationary period may be extended by the appointing agency which could delay certification until the probationary period is satisfactorily completed. This six (6) months' time ~~shall~~ **must** be continuous with the agency the officer is appointed to when applying for certification. The probationary period ~~shall~~ **must** not extend over one (1) year for certification purposes. ~~(4-2-03)~~()

02. Basic Training. The applicant ~~shall~~ **must** have satisfactorily completed: ~~(4-2-03)~~()

a. The POST Basic Detention Academy as required by the Council in Section 071; (4-2-03)

b. The POST Patrol-to-Detention Transition Academy; or (4-2-03)

c. Be a graduate of a college law enforcement ~~vo-tech~~ program, the curriculum of which has been certified by the Council as being equivalent to the POST Basic Detention Academy, and ~~shall~~ must have passed the POST detention certification examination approved by the Council. The applicant ~~shall~~ will be allowed two (2) attempts to pass the examination. The attempts ~~shall~~ must be no less than thirty (30) days apart and no more than six (6) months apart. If an officer fails both attempts or fails to retake the examination within six (6) months, he ~~shall~~ must successfully complete the POST Basic Detention Academy to be certified. (4-2-03)()

03. **Jail Training.** The applicant ~~shall~~ must have satisfactorily completed forty (40) hours of POST-approved jail training. (4-2-03)()

04. ~~Vo-Tech~~ **College Law Enforcement Program Graduates.** Graduates from Idaho POST-certified college law enforcement ~~vo-tech~~ programs ~~shall~~ must also comply with the requirements of Subsection 073.02. (4-2-03)()

05. **Patrol and Detention ~~Vo-Tech~~ College Law Enforcement Program or POST Academy Graduates.** An applicant who is appointed to a detention officer position from three (3) to five (5) years after satisfactorily completing both the patrol and detention officer training through an Idaho POST-certified college law enforcement ~~vo-tech~~ program or the Idaho POST Academy, ~~may~~ will be eligible for detention officer certification in Idaho without attending the POST Basic Detention Academy, provided the officer: (4-7-11)()

a. Was appointed to a peace officer position in Idaho within three (3) years from graduating from the ~~vo-tech~~ college law enforcement program or POST Academy; (4-7-11)()

b. Possesses peace officer certification from Idaho; (4-2-08)

c. Submits a POST Certification Detention Challenge Packet; (4-2-08)

d. Discloses information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)

e. Attends an approved course of study in Idaho detention legal issues and passes the POST Idaho detention legal issues exam; (4-2-08)

f. Passes the following tests administered by a POST Training Specialist: (4-2-08)

i. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.c.; (4-2-08)

ii. The POST Firearms Qualification Course; and (4-2-08)()

~~iii. The POST Physical Fitness Test Battery; and~~ (4-2-08)

g. Satisfies the probationary period requirement of Section 065. (4-2-08)

177. CHALLENGING THE BASIC DETENTION ACADEMY.

Any county detention officer presently appointed by a duly constituted Idaho law enforcement agency who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as a detention officer or a student who has satisfactorily completed a Basic Detention Academy equivalent to the Idaho POST Basic Detention Academy within the last three (3) years may be eligible for certification in the state of Idaho without attending the Basic Detention Academy, provided the officer: (3-29-10)

01. **Submission of Challenge Packet.** Submits a POST Certification Detention Challenge Packet to POST Council, which must include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience; (4-6-05)

- 02. Discloses Decertification Information.** Discloses information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- 03. Detention Legal Issues Course Attendance.** Attends an approved course of study in Idaho detention legal issues and passes the POST Idaho detention legal issues exam; (4-6-05)
- 04. Passes Required Tests.** Passes the following tests administered by a POST Training Specialist: (4-2-03)
- a. The POST detention certification examination approved by the Council, conducted in the manner set forth in Subsection 176.02.c.; (4-2-08)
 - b. The POST Firearms Qualification Course; and (4-2-03)
 - ~~c. The POST Physical Fitness Test Battery. (4-2-03)~~
- 05. Completes Probationary Period.** Completes his probationary period as required by Subsection 176.01. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

251. GENERAL PROVISIONS.

- 01. Purpose.** ~~The~~ Instructor Certification ~~process are is~~ established for the purpose of ~~recognizing~~ ~~competence~~ training, assessing, and approving a person as an instructor of law enforcement subjects and/or general subjects pertinent to law enforcement personnel. (4-2-03)()
- ~~02. Certification. The Council shall certify instructors who meet the requirements set forth in Sections 250 through 256 and are deemed qualified to teach one (1) or more of the prescribed training courses. (4-2-03)~~
- ~~03. Applications. All applications for award of Instructor Certificates shall be completed by the applicant on the prescribed "Certified Instructor Packet" as provided by the POST Council. (4-2-03)~~
- 04.2. Submission Certification.** ~~The Certified Instructor Packet shall be submitted by the applicant to his agency head who shall review it prior to signing it and forwarding it to the POST Regional Training Specialist. The Council will certify applicants who meet the requirements set forth in Sections 250 through 256 and are deemed qualified to develop and instruct training courses to POST standards. Certificates shall will~~ be issued to the agency head or school director for award to the applicant. (4-2-03)()
- ~~05.3. POST Training Credit. No The POST Council will grant~~ training credit ~~shall be given~~ for ~~attendance at a school taught~~ successful completion of training sponsored and conducted by the POST Council or instructed entirely by one (1) or more ~~instructors who are not~~ POST-certified instructors, ~~or an approved instructor as defined in Subsection 07 of this section, provided the training is properly documented and meets established POST standards regarding measurable, verifiable training. However, POST training credit may be given for attendance at a school taught by an instructor seeking instructor certification in the respective subject pursuant to Sections 250 through 256.~~ (4-2-03)()
- ~~06. POST-Certified School. A school taught by one (1) or more POST certified instructors in their respective subjects shall be considered a POST-certified school. (4-2-03)~~
- 07.4. Quality.** Instructor certification ~~cannot insure good~~ is not a guarantee of quality instruction. Therefore, it ~~shall will~~ be the continuing responsibility of agencies, school directors, or coordinators to see that instructors are assigned only subjects which they are qualified to teach and are supervised on a regular basis and POST Academy and Regional Training Specialists to supervise, monitor, and audit instructors and courses to ensure that instructional excellence is maintained. (4-7-11)()

05. Suspension. Instructor certification may be suspended by the POST Division Administrator whenever an instructor significantly or repeatedly fails to develop, document, conduct, or report training activities according to POST standards, or fails to abide by the POST Instructor Code of Ethics. ()

a. Suspensions are not punitive, and will only be initiated for the purpose of maintaining the integrity of POST standards and training activities. ()

b. Suspensions are temporary and will remain in effect no longer than one (1) year, pending review. ()

c. A suspension will initiate an immediate review of the suspended instructor's certification to determine if a revocation is warranted. ()

086. Revocation. Instructor certification may be revoked by the Council whenever an instructor is deemed to be unqualified to continue ~~teaching~~ instructing. Review of instructor certification may be initiated upon the request of an agency head, school director or coordinator, POST Division Administrator, or other reliable source. Such review may also be initiated by the Council in the absence of external requests or complaints. (4-2-03)()

097. Exceptions POST Approval in Lieu of Certification. Judges, attorneys, educators, doctors, federal officials, state officials, and other non-police personnel ~~are exempt from the instructor certification requirements, and should may~~ be utilized as "Approved" instructors when their ~~talents are~~ expertise is deemed appropriate. The POST Council may grant training credit for training provided by an independent expert when the expert: (4-7-11)()

a. Has completed a POST-approved instructor orientation course; or ()

b. Acts as a presenter, guest speaker, or panel member of a course facilitated by a POST-certified instructor; or ()

c. Acts as a presenter, guest speaker, or panel member at a management or executive-level course or seminar (for management or executive credit only). ()

252. REQUIREMENTS FOR INSTRUCTORS OF LAW ENFORCEMENT SUBJECTS.

The requirements in Sections 250 through 252 are necessary for ~~award of the~~ instructor certification for law enforcement subjects and/or general subjects pertinent to law enforcement personnel: (4-2-03)()

01. Law Enforcement Experience. The applicant ~~shall~~ must have a minimum of three (3) years of law enforcement experience, possess a current or previous Idaho POST professional certification, and may not have been previously decertified as a public safety official of any jurisdiction. (4-2-03)()

02. Education. ~~The applicant shall be a high school graduate or the equivalent as recognized by the Council.~~ (4-2-03)

032. Instructor Development Course. The applicant ~~shall have~~ must satisfactorily completed ~~an the~~ Idaho POST Instructor Development Course approved by the Council. ~~The Council may waive this requirement in exceptional cases reflecting outstanding education, experience, or achievement; or under unusual circumstances upon written application by a school director or coordinator.~~ (4-2-03)()

043. Subsequent Applications. A current POST-certified instructor in good standing is not required to complete the Instructor Development Course again when making application for an instructor certification endorsement in an additional subject ~~and who has already satisfactorily completed an Instructor Development Course approved by the Council shall not have to complete the course again.~~ (4-2-03)()

054. Conducted Energy Device Instructor Certification Endorsement. ~~An applicant~~ POST Certified Instructor applying for Conducted Energy Device Instructor Certification ~~shall~~ Endorsement must provide proof of successful completion of the device manufacturer's "operator" and "instructor" courses ~~for the Conducted Energy~~

~~Device they will be instructing in to obtain or maintain POST instructor endorsement for the device. (4-7-11)()~~

~~253. REQUIREMENTS FOR INSTRUCTORS OF GENERAL SUBJECTS PERTINENT TO LAW ENFORCEMENT PERSONNEL.~~

~~The requirements in Sections 250, 251, and 253 are necessary for award of the instructor certificate for general subjects pertinent to law enforcement personnel such as criminal law, human relations, and management topics:~~

~~(4-2-03)~~

~~01. Experience. The applicant shall have a minimum of three (3) years of experience in the subject area to be instructed. (4-2-03)~~

~~02. Education. The applicant shall have a baccalaureate or higher degree in a related field. (4-2-03)~~

~~03. Recommendation. The applicant shall be recommended by a school director or coordinator. (4-2-03)~~

254.3. PROCEDURES FOR POST INSTRUCTOR CERTIFICATION.

01. Application for the Instructor Development Course. After meeting the requirements set out in Sections 250, and 251, and ~~either 252 or 253~~, the applicant shall must submit ~~to his POST Regional Training Specialist~~ a completed POST "Certified Instructor Packet," ~~to his POST Regional Training Specialist~~, which shall must include: (4-2-03)()

~~a. Three (3) letters~~ A signed attestation of recommendation eligibility for certification;(4-2-03)()

~~b. A resume of schools attended in preparation for instructing the selected subject~~ The applicant's agency head's or school director's signature; (4-2-03)()

~~c. A lesson plan, including visual aids, equipment needed, handouts, performance objectives, and test questions with answers.~~ (4-2-03)

02. Evaluation Completion of the Instructor Development Course. Applicants for Instructor Certification must attend and successfully complete all of the requirements of the POST Instructor Development Course. (4-2-03)()

03. POST Instructor Certification. Pending written notification of certification, Instructor Development Course graduates may only observe or co-instruct courses which generate data or records for POST certification, recognition, or credit. Applicants may only act as a lead instructor as part of the evaluation process conducted by a POST Regional Training Specialist. ()

~~a. Within two (2) weeks after submitting the packet,~~ The applicant shall must contact his POST Regional Training Specialist upon successful completion of the POST Instructor Development Course to set up a time for the Training Specialist to monitor evaluate a class the applicant is instructing. ~~In addition to evaluating the quality of instruction provided by the applicant, the Training Specialist shall take into consideration background, education, achievement, teaching experience, and qualifications, as well as such variables as need, region, and recommendations.~~ (4-2-03)()

~~b. A current POST-certified instructor making application for instructor certification in an additional subject and who has previously had a class monitored by a POST Training Specialist shall not be required to have a class in the additional subject monitored~~ Applicants who fail to arrange for and complete an evaluation within one (1) calendar year of completion of the Instructor Development Course may be required to complete a POST Instructor Orientation Course prior to proceeding with the certification process. (4-2-03)()

03c. Recommendation. After ~~ensuring all requirements are met and the Certified Instructor Packet is complete~~ evaluating the applicant for compliance with POST standards for certification as an instructor, the POST Regional Training Specialist shall will attach his comments and recommendation to the Certified Instructor p and forward it to the POST Division Administrator. ()

d. The POST Division Administrator ~~shall~~ will review the POST Regional Training Specialist's evaluation and recommendation, and upon approval, issue the POST Instructor eCertification. ~~(4-7-11)~~()

e. POST will notify applicants in writing of their certification status. ()

254. PROCEDURES FOR HIGH LIABILITY INSTRUCTOR ENDORSEMENT.

01. Requirements. POST Certified Instructors must obtain additional endorsements to instruct topics related to Defensive Tactics, Firearms, Conducted Energy Devices, Emergency Vehicle Operations, and any other topic deemed as "high liability" by the POST Council. High liability topic instructor endorsement must be maintained as required by Subsection 256.02.e. ()

02. Application. After meeting the requirements set out in Sections 250 through 253, the applicant must submit a completed POST High Liability Instructor Endorsement Application Packet to his POST Regional Training Specialist. Upon notification from the POST Regional Training Specialist, the applicant may begin observation of instruction in the topic for which the application was submitted. The POST High Liability Instructor Endorsement Application Packet must include: ()

a. A resume of experience and schools attended in preparation for instructing the selected subject; ()

b. The applicant's agency head's or school director's signature. ()

03. Completion of a High Liability Instructor School. An applicant for High Liability Instructor Endorsement must attend and successfully complete all of the requirements of the POST instructor course specific to the high liability area he intends to instruct. ()

a. The POST Regional Training Specialist will verify the high liability instructor school roster bearing the applicant's name. ()

b. Upon notification from the POST Regional Training Specialist, the applicant may begin co-instruction of the topic for which the application was submitted, in preparation for evaluation as an endorsed instructor in the high liability area. ()

04. Evaluation. Prior to evaluation by a POST Regional Training Specialist, high liability instructor endorsement applicants are not approved to act as a lead instructor for any course offered for POST training credit in the topic for which the application was submitted. Within one (1) calendar year after completing the high liability instructor school, the applicant must arrange and complete a practical evaluation conducted by his POST Regional Training Specialist. In addition to evaluating the quality of instruction provided by the applicant, the Training Specialist will take into consideration documented observation and co-instructor experience, and recommendations of currently endorsed instructors. ()

05. Recommendation. After ensuring all requirements are met and the High Liability Endorsement Instructor Packet is complete, the POST Regional Training Specialist will attach his recommendation to the packet and forward it to the POST Division Administrator. The POST Division Administrator or his designee will review the POST Regional Training Specialist's evaluation and recommendation, and upon approval, issue the endorsement. ()

06. Multiple Endorsements. A current POST-endorsed high liability instructor making application for instructor endorsement in an additional high liability topic must meet the requirements of this section for the additional topic prior to endorsement in that topic area. ()

255. EXPIRATION.

01. Valid Instructor Certification. Instructor certification shall will remain valid for a period of two (2) years with the exception of firearms instructor certification which shall remain valid for a period of one (1) year

indefinitely, provided the instructor remains in good standing and complies with all POST requirements for refresher training. (4-7-11)()

a. Instructors who fail to instruct for a period of two (2) years will be deemed inactive and may not instruct as a POST instructor until they have reapplied as required in Subsection 253.01. ()

b. Inactive instructors must complete a POST-approved instructor orientation course. The POST Regional Training Specialist will verify and approve the POST-approved instructor orientation course roster or course record. The POST Division Administrator will then re-issue the instructor certification. ()

02. Valid High Liability Endorsement. Instructor endorsements will remain valid for two (2) years, with the exception of Firearms endorsements which will remain valid for one (1) year, provided the instructor remains in good standing and complies with all POST requirements for refresher training. ()

a. High Liability Instructors who fail to instruct for a period of two (2) years will be deemed inactive with respect to the relevant endorsement(s) and may not instruct as a POST instructor in the topic area(s) until they have reapplied as required in Subsection 254.02. ()

b. Inactive high liability instructors must be re-evaluated by a POST Regional Training Specialist. ()

c. After ensuring all requirements are met and the High Liability Endorsement Instructor Packet is complete, the POST Regional Training Specialist will attach his recommendation to the packet and forward it to the POST Division Administrator. The POST Division Administrator or his designee will review the POST Regional Training Specialist's evaluation and recommendation, and upon approval, re-issue the endorsement. ()

023. Conducted Energy Device. A POST-certified endorsed Conducted Energy Device instructor shall must maintain valid certification through the manufacturer for each Conducted Energy Device they are POST-certified endorsed to instruct. If their certification through the manufacturer becomes invalid for any reason, their POST Conducted Energy Device Instructor Certification Endorsement for that device shall will immediately be deemed inactive. (4-7-11)()

256. RENEWAL OF HIGH LIABILITY ENDORSEMENT.

01. Notification. At the end of the certification endorsement period, the POST Council will send notification to the instructor, provided the instructor still meets the qualifications for instructor certification and endorsement. (4-11-15)()

02. Requirements. To renew the certification endorsement, the instructor must submit the following to POST Council: (4-11-15)()

a. A teaching log indicating the instruction of at least one (1) class during the last certification endorsement period; (4-2-03)()

b. An updated lesson plan, if any changes have been made since it was last submitted; and (4-2-03)

eb. A firearms qualification score sheet witnessed by a current POST-certified endorsed firearms instructor other than the renewing instructor. The qualification course must be the POST Council-approved course pertinent to the topic the instructor is certified to teach. This requirement applies only to POST-certified endorsed firearms instructors who are renewing their firearms instructor certification endorsement. (4-11-15)()

dc. Instructors must meet recertification endorsement requirements in compliance with Council and applicable industry standards. (4-11-15)()

ed. In addition to the above subsections, instructors of topics related to Defensive Tactics, Firearms, and Emergency Vehicle Operations must complete a minimum of eight (8) hours of continuing instructor training every two (2) years, to include use of force law, liability, and further instructor training specific to the knowledge and

skills to teach in the ~~certified~~ endorsed instructional topic area(s). (4-11-15)()

~~fe.~~ Conducted Energy Device instructors must submit proof of successful completion of the manufacturer's recertification requirements for each Conducted Energy Device they are POST-~~certified~~ endorsed to instruct. (4-11-15)()

(BREAK IN CONTINUITY OF SECTIONS)

281. POST TRAINING CREDIT: APPROVAL OF FORMAL SCHOOLS ~~FORMATION~~ AND CERTIFICATION OTHER COURSES OF INSTRUCTION.

282. GENERAL PROVISIONS.

01. Purpose. School ~~certification~~ and course approval is established for the purpose of recognizing ~~schools~~ training deemed adequate to effectively teach law enforcement subjects and/or general subjects pertinent to law enforcement personnel. (4-2-03)()

02. Certification Approval. The Council ~~shall certify~~ may approve schools ~~deemed adequate to effectively teach one (1) or more of the prescribed~~ or courses that meet established POST standards regarding measurable, verifiable training courses. (4-2-03)()

~~03. Applications. All applications for award of school certification shall be completed by the school director on the prescribed "Application for Certification of School" as provided by the POST Council.~~ (4-2-03)

~~04. Submission. The Application for Certification of School form shall be submitted by the school director to his agency head who shall review it prior to signing it and forwarding it to the POST Regional Training Specialist.~~ (4-2-03)

~~053. Appeal.~~ In the event that ~~certification~~ approval is denied, appeal may be made directly to the Council. (7-1-93)()

~~064. No POST Training Credit.~~ No POST training credit ~~shall~~ will be given for attendance at a school that has not been ~~certified~~ approved by the Council. (4-2-03)()

~~075. POST-Certified Approved School or Course. A school sponsored and conducted by the POST Council or a school taught by a POST-certified instructor in their respective subject shall be considered a POST-certified school. In addition to training instructed according to Subsection 251.04 of these rules, the POST Council will grant training credit for schools and organized collections or series of courses according to the following criteria:~~ (4-2-03)()

~~a. A school or course facilitated by a POST-certified or approved instructor which is taught in whole or in part by one (1) or more instructors who are not POST-certified or approved will be considered a POST-approved school provided the training meets the requirements of Section 284.~~ ()

~~b. A school or course provided by a third party will be considered a POST-approved school provided the sponsoring agency provides documentation meeting the pre-approval status requirements of Subsection 284.02, and if applicable, Sections 306 through 310. All schools or courses approved pursuant to this subsection are subject to the provisions of Section 285, "Course Evaluation Fee."~~ ()

~~c. A school or course which is taught or delivered outside of the state of Idaho will be considered a POST-approved school provided the trainee provides either documentation of POST course approval of the host state or documentation of International Association of Directors of Law Enforcement Standards and Training (IADLEST) national course certification and provides a certificate indicating successful completion of the training within thirty (30) days of the completion of the training session.~~ ()

d. Any management or executive-level school or course attended for the purpose of compliance with Sections 119 or 120 of these rules by a trainee currently holding a command level rank will be considered a POST-approved school provided the trainee provides a certificate indicating successful completion of the training within thirty (30) days of the completion of the training session. ()

~~08. Revocation. Certification may be revoked by the Council whenever a school is deemed to be inadequate. In such event, the head of the sponsoring agency of the school shall be notified by the Council. The school may be recertified by the Council when it deems the deficiencies have been corrected. (4-2-03)~~

283. EXAMINATIONS.

Written examinations may be required of each trainee in each school ~~certified~~ approved by the Council for thirty-five (35) or more POST training hours. (4-2-03)()

~~284. CERTIFICATES OF COMPLETION.~~

~~Certificates of completion may be issued by the Council to those satisfactorily completing schools worth thirty-five (35) or more POST training hours. (4-2-03)~~

~~285. SCHOOL CERTIFICATION.~~

~~01. Temporary Certification. Temporary certification may be granted for a specific law enforcement training school offered on a one (1) time or infrequent basis. Temporary certification shall be issued for a definite period of time not to exceed one (1) year. (4-2-03)~~

~~02. Continuing Certification. Continuing certification may be granted for longer than one (1) year for law enforcement training schools offered on a regular basis. Such certification may be reviewed at any time at the discretion of the POST Division Administrator. (4-2-03)~~

286.4. PROCEDURES REQUIRED DOCUMENTATION FOR SCHOOL OR COURSE APPROVAL.

01. Application Documentation. The completed Application for Certification of School form shall Documentation must be submitted to by the POST-certified or approved instructor acting as the lead instructor or facilitator for the training Regional Training Specialist a minimum of thirty (30) days prior to the start of the school, and shall must include: (4-2-03)()

a. A course outline; (4-2-03)

b. A course description of the subject material being offered and the time period to be devoted to each subject area; (4-2-03)

~~c. A schedule of classes; (4-2-03)~~

~~d.~~ A statement about the law enforcement personnel to whom it shall will be directed; (4-2-03)()

~~e.~~ A resume on each instructor, unless the instructor is a POST-certified or approved instructor; and (4-2-03)()

f. A lesson plan meeting the guidelines presented in the POST Instructor Development and POST Instructor Orientation Courses, unless the lesson plan is permanently on file at the sponsoring agency, including all performance objectives and any documentation of the assessment method(s) used to verify student participation and/or measure the students' completion of the performance objectives. (4-2-03)()

~~02. Evaluation. An evaluation of the school shall be made on the basis of the information provided in the Application for Certification of School. A school inspection may be conducted by the Council or its representative as part of the certification procedure. If there is still a question about whether or not the school shall be certified after the evaluation is complete, the POST Council shall review the application and determine whether the school shall be certified. **Submission Deadlines.** The documentation listed in Subsection 284.01 must be submitted to the POST Regional Training Specialist within the following timeframes to be eligible for POST training credit: (4-2-03)()~~

a. For pre-approval status, documentation should be submitted as early as possible and must be submitted no later than thirty (30) days prior to the start of the training session, school, or course. All third-party training must be pre-approved, with the exception of management or executive-level training. ()

~~03b.~~ **Notification.** Notification of approval or denial of the request for certification shall be sent in the form of a letter from the POST Regional Training Specialist to the agency head. If approval is granted, the letter shall indicate how many POST training hours shall be awarded for completion of the training. Documentation should be submitted as early as possible and must be submitted no later than thirty (30) days following the completion of a training session, school, or course, including management or executive-level training. (4-2-03)()

~~043.~~ **Course Attendance Roster.** The school director shall submit the original copy of the An original or electronic POST Course Attendance Roster ~~to the POST Regional Training Specialist within seven~~ must be submitted by the POST-certified or approved instructor acting as the lead instructor or facilitator no later than thirty (730) days ~~of following the~~ completion of ~~the~~ a training session, school, or course for POST training credit approval. (4-2-03)()

287. THE SCHOOL DIRECTOR.

~~01.~~ **Responsibilities.** The school director shall be responsible for the overall supervision of the school, including, if applicable: (4-2-03)

- ~~a.~~ Arranging for qualified instructors; (4-2-03)
- ~~b.~~ Arranging for adequate facilities such as classrooms, gymnasium, safe firearms ranges, etc.; (4-2-03)
- ~~c.~~ Applying for POST certification of school; (4-2-03)
- ~~d.~~ Providing for food and lodging for trainees where appropriate; (4-2-03)
- ~~e.~~ Preparing and grading examinations; (4-2-03)
- ~~f.~~ Grading classroom notebooks; and (4-2-03)
- ~~g.~~ The conduct and discipline of the trainees. (7-1-93)

~~02.~~ **Determination of Successful Completion.** The school director shall make the final determination as to whether a trainee has successfully completed all reasonable standards and requirements of the training course. The school director shall also have the authority to dismiss from the school any trainee prior to the completion of the course if, in the school director's opinion, the trainee is unable or unwilling to successfully complete the prescribed training course. Immediately upon such dismissal, the school director shall submit a written report to the Council and the trainee's agency head with a detailed explanation of the action. (4-2-03)

~~03.~~ **Records.** The school director shall maintain complete records on each trainee. Within seven (7) days of completion of the school, he shall submit the original copy of the POST Course Attendance Roster to the POST Regional Training Specialist. (4-2-03)

~~288.—295. (RESERVED)~~

296. CERTIFICATION OF HIGH LIABILITY SCHOOLS.

In addition to the requirements set forth in Sections 281 through 287 of these rules, the requirements in Sections 296 through 298 are necessary for evaluation of the request for certification of a high liability school. (4-2-03)

297. REQUIREMENTS.

~~01.~~ **Determination of High Liability.** The POST Training Specialist shall have the discretion to make

~~the determination whether the school includes an element of risk or potential damage or injury to the trainees, property, or a third party not directly involved with the school. If such a determination is made, some or all of the following may be required:~~ (4-2-03)

- ~~a. Course evaluations from past participants or from agencies having direct knowledge of the course content and presentation;~~ (4-2-03)
- ~~b. A list of past participants having direct knowledge of the course content and presentation;~~ (4-2-03)
- ~~c. Documentation of certification of the school in other states;~~ (4-2-03)
- ~~d. A complete lesson plan, to include:~~ (4-2-03)
 - ~~i. How the material relates to Idaho Code;~~ (4-2-03)
 - ~~ii. Any applicable court rulings;~~ (4-2-03)
 - ~~iii. Any content warnings or precautions;~~ (4-2-03)
 - ~~iv. A safety plan; and~~ (4-2-03)
 - ~~v. A legal review.~~ (4-2-03)
- ~~e. A demonstration of the course for the POST Training Specialist and/or a subject matter expert who shall evaluate the content and presentation.~~ (4-2-03)

~~02. **Specialized Equipment.** Any associated costs or specialized equipment needed for the evaluation process shall be provided by the applicant at the time of application.~~ (4-2-03)

~~03. **Liability Disclaimer.** A liability disclaimer indemnifying the state of Idaho may be required as a condition of POST certification of the school.~~ (4-2-03)

2985. COURSE EVALUATION FEE.

01. Fee Schedule. The entity making application ~~shall will~~ be charged a course evaluation fee at the time of application. The course evaluation fee schedule is as follows: (4-2-03)(____)

- a.** The fee for evaluating a one (1) to four (4) hour course ~~shall will~~ be two hundred dollars (\$200). (4-2-03)(____)
- b.** The fee for evaluating a five (5) to eight (8) hour course ~~shall will~~ be four hundred dollars (\$400). (4-2-03)(____)
- c.** The fee for evaluating a nine (9) to sixteen (16) hour course ~~shall will~~ be six hundred dollars (\$600). (4-2-03)(____)
- d.** The fee for evaluating a seventeen (17) to twenty-four (24) hour course ~~shall will~~ be eight hundred dollars (\$800). (4-2-03)(____)
- e.** The fee for evaluating a twenty-five (25) to forty (40) hour course ~~shall will~~ be one thousand dollars (\$1,000). (4-2-03)(____)
- f.** The fee for evaluating a course in excess of forty (40) hours ~~shall will~~ be a combination of the above as determined by the POST Division Administrator. (4-2-03)(____)

02. Exception. The course evaluation fee ~~shall will~~ not be charged for courses developed and conducted by governmental agencies. (4-2-03)(____)

03. **Waiver.** The course evaluation fee may be waived in whole or in part at the discretion of the POST Division Administrator. (4-2-03)

~~299~~36. -- 305. (RESERVED)

306. ~~CERTIFICATION OF SCHOOLS~~ APPROVAL OF TRAINING UTILIZING ALTERNATIVE METHODS OF TRAINING DELIVERY.

307. **ALTERNATIVE METHODS OF TRAINING DELIVERY.**

Alternative methods of training delivery ~~shall~~ will include, but not be limited to, the following types of technology: (4-2-03)()

01. **Videotape;** (4-2-03)

02. **Television-Based;** (4-2-03)

03. **Computer-Based;** (4-2-03)

a. Simulator; (4-2-03)

04. **Web-Based;** (4-2-03)

a. Distance learning; (4-2-03)

b. On-line interactive; and (4-2-03)

05. **Correspondence.** (4-2-03)

308. **GENERAL PROVISIONS.**

01. **Minimum Length.** Each course ~~shall~~ must be a minimum of two (2) hours in length. (4-2-03)()

02. **Notification.** Notification of approval or denial of the request for ~~certification shall~~ approval will be sent in the form of a letter from the POST Regional Training Specialist to the applicant. If approval is granted, the letter ~~shall~~ will indicate how many POST training hours ~~shall~~ will be awarded for completion of the training. (4-2-03)()

03. **Examinations.** (4-2-03)

a. Upon completion of the course, each trainee ~~shall~~ must be given an examination to assess their knowledge of the course material. The examination ~~shall~~ must be proctored by an Idaho POST-certified instructor or a subject matter expert approved by POST prior to the examination. (4-2-03)()

b. Only those trainees receiving a passing score on the examination ~~shall~~ will be awarded POST training hours for the course. (4-2-03)()

04. **POST Training Credit.** To receive credit on their POST training record, the trainee ~~shall~~ must submit the following to POST: (4-2-03)()

a. The certificate of completion; (4-2-03)

b. A signed statement from their agency head or school director verifying participation and completion of the course. (4-2-03)()

05. **Falsification of Information.** The POST Council may proceed with decertification proceedings

against any officer who falsifies any information. (4-2-03)

06. Liability Disclaimer. A liability disclaimer indemnifying the state of Idaho ~~shall~~ **must** be printed on all commercially-developed or distributed training materials ~~certified~~ **approved** by POST Council. ~~(4-2-03)~~()

309. REQUIREMENTS.

In addition to the requirements set forth in Sections 281 and 282 of these rules, the requirement in Sections 306 through 311 are necessary for evaluation of the request for certification of a school utilizing an alternative method of training delivery. (4-2-03)

01. Training Medium. The training medium utilized ~~shall~~ **must** be indicated on the Application for Certification of School. ~~(4-2-03)~~()

02. Specialized Equipment. Any specialized equipment, software, network access, etc. needed for the evaluation process ~~shall~~ **must** be provided to POST free-of-charge by the applicant at the time of application. ~~(4-2-03)~~()

03. Course Evaluation Fee. A course evaluation fee ~~shall~~ **will** be charged pursuant to Section 2985 of these rules. ~~(4-2-03)~~()

310. RECORDS.

A course file ~~shall~~ **must** be maintained by the ~~applicant~~ **host agency or facilitating instructor** and ~~shall~~ **must** be readily available to POST Council. The file ~~shall~~ **must** include: ~~(4-2-03)~~()

01. Name. The name of the course provider; (4-2-03)

02. The Lesson Plan; (4-2-03)

03. Objectives. The course learning objectives; (4-2-03)

04. Hours Awarded. The number of POST training hours awarded; (4-2-03)

05. Attendance. The attendance policy and the methodology for ascertaining and validating trainee attendance and participation, such as secure password, attendance roster, encrypted passcode, etc. (4-2-03)

06. Assessment Record. The trainee assessment record; (4-2-03)

07. Certificate of Completion. The names of the trainees awarded a certificate of completion and the date they completed the course; and (4-2-03)

08. Course Evaluations. The Course Evaluations By The Trainees. (4-2-03)

311. CERTIFICATES OF COMPLETION.

The ~~applicant shall~~ **host agency or facilitating instructor will** issue a certificate of completion to each trainee successfully completing the training course. The certificate ~~shall~~ **will** include the following information: ~~(4-2-03)~~()

01. Course Provider. The name of the course provider; (4-2-03)

02. Trainee. The name of the trainee successfully completing the course; (4-2-03)

03. Date. The date the trainee completed the course; (4-2-03)

04. Hours. The number of course hours completed; and (4-2-03)

05. Course Administrator Facilitator. The name of the ~~person~~ **POST-certified or POST-approved instructor** responsible for the general administration of the course. ~~(4-2-03)~~()

(BREAK IN CONTINUITY OF SECTIONS)

351. SELF-SPONSORED STUDENT PROGRAM SELECTION STANDARDS.

01. **Requirement.** Every Self-Sponsored Student ~~shall~~ **must** meet the minimum standards for employment (Sections 050 through 065) of this manual. ~~(4-2-08)~~()

02. **Procedures.** (3-20-97)

a. The applicant ~~shall~~ **will** be required to complete and submit to the POST Council a comprehensive application and personal history packet, along with ~~two (2)~~ **a** sets of fingerprints on **the standard** FBI applicant fingerprint cards. A non-refundable application fee is required and must accompany the application. ~~(3-20-97)~~()

b. In order to determine the applicant's suitability as a Self-Sponsored Student, the POST Council ~~shall~~ **will** conduct a thorough criminal and personal history background investigation. The fingerprint cards ~~shall~~ **will** be submitted to the Bureau of Criminal Identification, ~~which shall use one (1) set to conduct a statewide search, and shall forward the other set to the FBI for a national criminal history record check.~~ All results of the background investigation will be considered confidential and processed accordingly. ~~(3-20-97)~~()

c. The applicant must also successfully complete a polygraph, psychological evaluation, physical agility test, and a Police Officer Selection written examination approved by POST Council. (3-20-97)

IDAPA 11 - IDAHO STATE POLICE

11.11.04 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR CORRECTION OFFICERS AND ADULT PROBATION AND PAROLE OFFICERS

DOCKET NO. 11-1104-1501

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 Section 19-5107, 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 21, 2015.

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:

Fingerprint requirements were updated to reflect current Bureau of Criminal Identification requirements; "shall" changed to "will" and "must" pursuant to direction in Rule Writer's Manual; no certification is ever reactivated, so the language was corrected to reflect recertification; the Physical Agility Testing was deleted from the challenge requirements to enhance agencies' ability to hire retired officers from other states; firearms qualification was added to the correction officer challenge requirements, as this is a required job task for correction officers; added decertification investigation language where missing to make the language identical to other similar sections.

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature and representatives of the affected interests were involved in the drafting and approval of the rule.

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 Victor McCraw at (208) 884-7251.

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 28, 2015.

DATED this 28th Day of August, 2015.

Victor R. McCraw
POST Division Administrator
Idaho State Police/Peace Officer Standards & Training
700 S. Stratford Dr.
Meridian, ID 83642
Phone (208) 884-7251
Fax (208) 884-7295

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1104-1501
(Only Those Sections With Amendments Are Shown.)

036. CRIMINAL RECORD.

01. **Fingerprints.** The applicant must be fingerprinted on ~~two (2) copies of~~ the standard FBI Applicant fingerprint ~~form~~ card, and a search made of local, state, and national fingerprint files to disclose any criminal record. The original copies of all records check results must be retained by the POST Council. (4-11-06)()

02. **Conviction.** The term "conviction" includes: (4-11-06)

- a. Any conviction in a federal, tribal, state, county, or municipal court; (4-11-06)
- b. A voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court as final disposition; (4-11-06)
- c. The payment of a fine; (4-11-06)
- d. A plea of guilty, nolo contendere; or (4-11-06)
- e. A finding of guilt regardless of whether the sentence is imposed, suspended, deferred, or withheld, and regardless of whether the plea or conviction is set aside or withdrawn, or the case or charge is dismissed, or the record expunged under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the setting aside of the plea or conviction, or dismissal of the case or charge, or expungement of the record is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the plea, finding of guilt, or conviction. (4-11-06)

03. **Misdemeanor Conviction.** A misdemeanor conviction of any federal, state, or local crime may be grounds for rejection of the applicant. (4-11-06)

a. An applicant must be rejected who has been convicted of any misdemeanor sex crime, crime of deceit, or drug offense unless the conviction occurred more than five (5) years prior to application and the applicant's agency head files a written request for review with the POST Council. In the case of a willful concealment or petit theft conviction, the applicant may be accepted upon approval of the POST Division Administrator. The Division Administrator will have the discretion to refer the application to the POST Council. In all other cases, the POST Council must review the application and determine whether the individual will be certifiable as a correction officer in the state of Idaho. (4-11-06)

b. An applicant with any other misdemeanor conviction will be accepted upon approval of their agency head provided the conviction occurred more than two (2) years prior to application and the applicant's agency head submits written documentation that, with knowledge of the facts and circumstances concerning the offense or violation, he approves the applicant. If the conviction occurred during the two (2) years immediately preceding application, the POST Council must review the application and determine whether the individual will be certifiable as a correction officer in the state of Idaho. (4-11-06)

04. **Felony Conviction.** An applicant must be rejected who has been convicted of any felony crime, the punishment for which could have been imprisonment in a federal or state penal institution. For the purpose of this rule, a felony conviction will continue to be considered a felony conviction regardless of whether the conviction is later reduced to a misdemeanor conviction under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the reduction is based upon lenity or the furtherance of rehabilitation rather than upon any defect in the legality or factual basis of the felony conviction. No waivers will be granted by the POST Council, except where, since the time of the conviction, the crime for which the defendant was convicted has, by statute, been reduced to a misdemeanor or decriminalized in the jurisdiction where the conviction occurred. In such cases, the POST Council

must review the application and determine whether the individual will be certifiable as a correction officer in the state of Idaho. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

051. LAPSE OF CORRECTION OFFICER CERTIFICATION.

The certification of any correction officer ~~shall~~ **will** be considered lapsed if the officer does not serve as a correction officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified correction officer who remains in an administrative duty assignment with the Idaho Department of Correction ~~shall~~ **will** retain their POST certification provided they do not leave employment with the Idaho Department of Correction and satisfy the continuing training requirement of at least twenty (20) hours per year. The three-year period provided herein ~~shall~~ **will** be tolled during any time period that a correction officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. (4-4-13)()

01. Three to Five Years. A correction officer who has been out of full-time correction officer status from three (3) to five (5) years and who wants to ~~reactivate certification shall~~ **be recertified must** meet the following POST requirements: (4-4-13)()

- a. Submit a POST Certification Correction Challenge Packet; (4-11-06)
- b. Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- c. Pass the following tests administered by a POST Training Specialist: (4-11-06)
 - i. The POST correction certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; ~~and~~ (4-11-06)()
 - ii. The POST ~~Correction Officer Physical Agility Test~~ **Firearms Qualification Course**; and (4-11-06)()
- d. Satisfactorily complete a probationary period of not less than six (6) months. (4-11-06)

02. Over Five Years. A correction officer who has been out of full-time correction officer status for over five (5) years ~~shall~~ **must** attend the POST Basic Correction Academy or a POST-certified private prison contractor's correction officer training program to ~~reactivate certification~~ **be recertified**. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time correction officer status, the officer was engaged in an occupation requiring correction officer training, skill, and experience. This evidence ~~shall~~ **must** be submitted with a POST Certification Correction Challenge Packet. Upon receiving a waiver, the officer ~~shall~~ **must** meet the following POST requirements: (4-4-13)()

- a. Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- b. Pass the following tests administered by a POST Training Specialist: (4-11-06)
 - i. The POST correction certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; ~~and~~ (4-11-06)()
 - ii. The POST ~~Correction Officer Physical Agility Test~~ **Firearms Qualification Course**; and (4-11-06)()
- c. Satisfactorily complete a probationary period of not less than six (6) months. (4-11-06)

03. Over Eight Years. A correction officer who has been out of full-time correction officer status for over eight (8) years ~~shall~~ **must** attend the POST Basic Correction Academy or a POST-certified private prison contractor's correction officer training program to be recertified. No waiver of this requirement ~~shall~~ **will** be granted by the Council. (4-4-13)()

(BREAK IN CONTINUITY OF SECTIONS)

054. CHALLENGING THE BASIC CORRECTION ACADEMY.

Any correction officer presently appointed by the Idaho Department of Correction or by a private prison contractor of the State Board of Correction who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as a correction officer or a student who has satisfactorily completed a Basic Correction Academy equivalent to the Idaho POST Basic Correction Academy within the last three (3) years will be eligible for certification in the state of Idaho without attending the Basic Correction Academy, provided the officer: (4-11-06)

01. Submission of Challenge Packet. Submits a POST Certification Correction Challenge Packet to POST Council, which must include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience; (4-11-06)

02. Discloses Decertification Information. ~~Discloses information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof;~~ ()

023. Passes Required Tests. Passes the following tests administered by a POST Training Specialist: (4-11-06)

a. The POST correction certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; ~~and~~ (4-11-06)()

b. The POST ~~Correction Officer Physical Agility Test~~ **Firearms Qualification Course**; and (4-11-06)()

034. Completes Probationary Period. Completes his probationary period as required by Subsection 053.01. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

062. LAPSE OF ADULT PROBATION AND PAROLE OFFICER CERTIFICATION.

The certification of any adult probation and parole officer ~~shall~~ **will** be considered lapsed if the officer does not serve as an adult probation and parole officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified adult probation and parole officer who remains in an administrative duty assignment with the Idaho Department of Correction ~~shall~~ **will** retain their POST certification provided they do not leave employment with the Idaho Department of Correction and satisfy the continuing training requirement of at least twenty (20) hours per year. The three-year period provided herein ~~shall~~ **will** be tolled during any time period that an adult probation and parole officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. (4-4-13)()

01. Three to Five Years. An adult probation and parole officer who has been out of full-time adult probation and parole officer status from three (3) to five (5) years and who wants to ~~reactivate certification shall be~~ **recertified must** meet the following POST requirements: (4-4-13)()

a. Submit a POST Certification Adult Probation and Parole Challenge Packet; (4-11-06)

- b.** Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- c.** Pass the following tests administered by a POST Training Specialist: (4-11-06)
- i.** The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; (4-2-08)
- ii.** The POST Firearms Qualification Course; and (~~4-2-08~~)()
- iii.** ~~The POST Adult Probation and Parole Officer Physical Agility Test; and~~ (4-11-06)
- d.** Satisfactorily complete a probationary period of not less than six (6) months. (4-11-06)
- 02. Over Five Years.** An adult probation and parole officer who has been out of full-time adult probation and parole officer status for over five (5) years shall must attend the POST Basic Adult Probation and Parole Academy to ~~reactivate certification~~ be recertified. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time adult probation and parole officer status, the officer was engaged in an occupation requiring adult probation and parole officer training, skill, and experience. This evidence shall must be submitted with a POST Certification Adult Probation and Parole Challenge Packet. Upon receiving a waiver, the officer shall must meet the following POST requirements: (~~4-4-13~~)()
- a.** Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- b.** Attend and pass Idaho POST-certified courses in Arrest Techniques and Practical Problems; (4-11-06)
- c.** Pass the following tests administered by a POST Training Specialist: (4-11-06)
- i.** The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; (4-2-08)
- ii.** The POST Firearms Qualification Course; and (~~4-2-08~~)()
- iii.** ~~The POST Adult Probation and Parole Officer Physical Agility Test; and~~ (4-11-06)
- d.** Satisfactorily complete a probationary period of not less than six (6) months. (4-11-06)
- 03. Over Eight Years.** An adult probation and parole officer who has been out of full-time adult probation and parole officer status for over eight (8) years shall must attend the POST Basic Adult Probation and Parole Academy to be recertified. No waiver of this requirement shall will be granted by the Council. (~~4-4-13~~)()

(BREAK IN CONTINUITY OF SECTIONS)

065. CHALLENGING THE BASIC ADULT PROBATION AND PAROLE ACADEMY.

Any adult probation and parole officer presently appointed by the Idaho Department of Correction who, within the last five (5) years, has been employed and certified or commissioned by another state or the federal government as an adult probation and parole officer or a student who has satisfactorily completed a Basic Adult Probation and Parole Academy equivalent to the Idaho POST Basic Adult Probation and Parole Academy within the last three (3) years will be eligible for certification in the state of Idaho without attending the Basic Adult Probation and Parole Academy, provided the officer: (4-11-06)

- 01. Submission of Challenge Packet.** Submits a POST Certification Adult Probation and Parole

Challenge Packet to POST Council, which must include copies of POST training records from other states to substantiate the officer's training; and transcripts, certificates, diplomas, or other documents that substantiate the officer's education and experience; (4-11-06)

02. **Discloses Decertification Information.** Discloses information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof: ()

023. **Attends and Passes POST-Certified Courses.** Attends and passes Idaho POST-certified courses in Arrest Techniques and Practical Problems; (4-11-06)

034. **Passes Required Tests.** Passes the following tests administered by a POST Training Specialist: (4-11-06)

a. The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; (4-2-08)

b. The POST Firearms Qualification Course; and (4-2-08)

~~**c.** The POST Adult Probation and Parole Officer Physical Agility Test. (4-2-08)~~

045. **Completes Probationary Period.** Completes his probationary period as required by Subsection 064.01 of these rules. (4-11-06)