

Dear Senators McGEE, Hammond & Werk , and
Representatives JoAn WOOD, Hart & Mary Lou Shepherd:

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

IDAPA 11.13.01 - Rules Governing Motor Carriers (Docket #11-1301-0901);

11.07.01 - General Rules Governing Motor Vehicles

(Docket #11-0701-0901).

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 9-10-09. 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 10-8-09.

_____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 334-2475, or send a written request to the address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

TO: Rules Review Subcommittees of the Senate Transportation Committee and the House Transportation and Defense Committee

FROM: Research & Legislation Staff - Eric Milstead

DATE: August 21, 2009

SUBJECT: Idaho State Police – General Rules Governing Motor Vehicles

The Idaho State Police has submitted proposed rules as discussed below.

1. IDAPA 11.07.01 – Rules Governing Motor Vehicles – General Rules (Docket No. 11-0701-0901)

The Idaho State Police submit notice of proposed rulemaking at IDAPA 11.07.01 - Rules Governing Motor Vehicles – General Rules. The proposed rule provides for updated and correct code references and updates the standards applicable to Title 49, Chapter 9, Idaho Code. The agency notes that negotiated rulemaking was not conducted because the proposed rule is not controversial and only updates references.

The agency's proposed rule is authorized pursuant to Sections 67-2901 and 49-901, Idaho Code.

2. IDAPA 11.13.01 - Rules Governing Motor Carriers (Docket No. 01-1301-0901)

The Idaho State Police submit notice of proposed rulemaking at IDAPA 11.13.01 - Rules Governing Motor Carriers. The proposed rule reflects the following principal changes: Provides a new definition of “Commercial Motor Vehicle” (found in Rule 10) where such definition is consistent with federal regulations; updates various code and internal references and provides technical changes throughout the proposed rule; and revises the definition of “hazardous materials” in rule 018.04 to maintain consistency with federal regulations;

The agency's proposed rule appears to be authorized pursuant to Sections 67-2901, and 49-901, Idaho Code.

cc: Idaho State Police
Colonel G. Jerry Russell, Director
Lt. Bill Reese

IDAPA 11 - IDAHO STATE POLICE
11.13.01 - RULES GOVERNING MOTOR CARRIERS
DOCKET NO. 11-1301-0901
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-2901 and 49-901 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 September 16, 2009.

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

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

This rulemaking makes technical changes; creates a new Rule 10 to define "commercial motor vehicle" as required in the federal regulations; updates Rule 18 to define "hazardous material" consistent with 49 CFR; and updates the CFR reference in Rule 19.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee or charge is imposed or increased.

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:

No negative fiscal impact on the general fund will result from this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking makes only technical corrections and those required by the federal regulations guiding the Commercial Vehicle Safety program.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt. Bill Reese, (208) 884-7220 or william.reese@isp.idaho.gov.

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 September 23, 2009.

DATED this 14th day of July, 2009.

Colonel G. Jerry Russell
Director
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83643
(208) 884-7003
(208) 884-7090

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 11-1301-0901

002. WRITTEN INTERPRETATIONS--AGENCY GUIDELINES (RULE 2).

The Idaho State Police Commercial Vehicle Safety Program Manager is authorized to make and give informal interpretations of the terms and definitions found in the Idaho Code, this Department's rules applicable to motor carriers and other filings relating to motor carriers maintained by the Department pursuant to law. In addition, written interpretations to these rules are available and maintained in the files of the Commercial Vehicle Safety Program Manager. The Commercial Vehicle Safety Program Manager may be contacted in writing at the Idaho State Police, PO Box 700, Meridian, Idaho 83680-0700, or may be reached by telephone at (208) 884-7220. For future rulemakings written interpretations in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules are published in the issues of the Idaho Administrative Bulletin proposing or adopting the rules. *The Department reserves to itself the authority to issue formal declaratory orders construing these items.* (4-5-00)(____)

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATED BY REFERENCE (RULE 4).

The Code of Federal Regulations (CFR) is referred to in Sections 012, 018 and 019. Federal Regulations are adopted by reference in Sections 018 and 019. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (____)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 5).

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (____)

02. Mailing Address. The mailing address for the headquarters office is Idaho State Police, P.O. Box 700, Meridian, Idaho 83680. (____)

03. Street Address. The headquarters office of the Idaho State Police is located at 700 S. Stratford Drive, Meridian, Idaho 83642. (____)

0046. PUBLIC RECORD ACT COMPLIANCE (RULE 6).

All materials in motor carrier files, except those that are investigatory records under Section 9-340(22), Idaho Code, are public records available for inspection, examination and copying. Investigatory records are not public records, but may be examined or disclosed by the object of the investigation pursuant to Section 9-335, Idaho Code. (4-5-00)

0067. CITATION (RULE 7).

The official citation of these rules is IDAPA 11.13.01.000 et seq. For example, this rule is cited as IDAPA 11.13.01.0067. (4-5-00)(____)

0078. FORMS (RULE 8).

The Idaho State Police Commercial Vehicle Safety Program Manager is authorized to produce and distribute forms and reports to carry out these rules. (4-5-00)(____)

008. (RESERVED).

~~009. CODE OF FEDERAL REGULATIONS, FEDERAL REGISTER (RULE 9).~~

~~The Code of Federal Regulations (CFR) is referred to in Sections 012, 018 and 019. Federal Regulations are adopted by reference in Sections 018 and 019. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent recompilations are also adopted by reference, but subsequent amendments are not.~~ (4-5-00)

~~0409. RELIEF FROM REGULATIONS (RULE 409).~~

~~The Department may issue a declaration of emergency relieving intrastate carriers from the requirements of 49 CFR Parts 390 through 399 adopted by reference in Section 019 following the declaration of an emergency. The maximum duration of the declaration of emergency, the particular rules in 49 CFR Parts 390 through 399 from which the carrier is relieved from complying, and all other aspects ~~relief~~ relieved from regulation shall be the same as provided in those Federal regulations.~~ (4-5-00)()

~~0105. DEFINITIONS (RULE 10).~~

~~Whenever any term used in these rules is defined or referred to in the Idaho Code, that term takes its statutory definition in these rules.~~ (4-5-00)

~~01. Commercial Motor Vehicle (CMV). Means a motor vehicle that has any of the following three (3) characteristics Any self-propelled or towed motor vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle:~~ (4-5-00)()

~~a. A gross vehicle weight (GVW), gross vehicle weight rating (GVWR), gross combination weight (GCW), or gross combination weight rating (GCWR) Has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR), or gross vehicle weight (GVW) or gross combination weight (GCW), of four thousand, five hundred thirty-seven six kilograms (4,5376 kg.), which is equal to (ten thousand, one pounds (10,001 lbs.)) or more, whichever is greater; or~~ (4-5-00)()

~~b. Is designed or used to transport more than eight (8) passengers, including the driver, for compensation; or~~ ()

~~b.c. Regardless of weight, Is designed or used to transport more than sixteen fifteen (165) or more passengers, including a the driver, and is not used to transport passengers for compensation; or~~ (4-5-00)()

~~ed. Regardless of weight, Is used in transportation transporting material found by the Secretary of Transportation to be of hazardous materials and is required to be placarded under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under the HMRS (49 CFR, Part 172, Subpart F) Subtitle B, Chapter I, Subchapter C.~~ (4-5-00)()

~~02. Department. Means the Idaho State Police.~~ (4-5-00)

~~03. Highway. Means the public roads, highways, and streets of the State.~~ (4-5-00)

~~04. Interstate Carrier. Means any person who or which owns or operates any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a foreign Nation, used or maintained for the transportation of persons or property.~~ (4-5-00)

~~05. Motor Carrier. Means an individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire.~~ (4-5-00)

~~06. Motor Vehicle. Means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highway in the transportation of passengers and/or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails.~~ (4-5-00)

~~07. Person. Means any individual, firm, copartnership, corporation, company, association, or joint~~

stock association, and includes any trustee, receiver, assignee, or personal representative thereof. (4-5-00)

08. Transportation. Includes all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, express or implied, together with all services, facilities and property furnished, operated or controlled by any such carrier or carriers and used in the transportation of passengers and/or property in commerce in the state of Idaho. (~~4-5-00~~)()

011. (RESERVED).

012. SAFETY FITNESS PROCEDURES (RULE 12).

01. Purpose And Scope. (4-5-00)

a. The purpose of Section 012 is to establish procedures to determine the safety fitness of motor carriers, assign safety ratings, take remedial action when required and prohibit motor carriers receiving a safety rating of “unsatisfactory” from operating a commercial motor vehicle: (4-5-00)

i. To provide transportation of hazardous materials for which vehicle placarding is required in accordance with 49 CFR Part 172, subpart F; or (4-5-00)

ii. To transport more than fifteen (15) passengers, including the driver. (4-5-00)

b. All provisions of Section 012 apply to all motor carriers subject to the requirement of this subchapter. (4-5-00)

02. Definitions. The following definitions apply to Section 012. (4-5-00)

a. Applicable safety regulations or requirements. Means 49 CFR subtitle, chapter III. subchapter B- Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I. subchapter C- Hazardous Materials Regulations. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (4-5-00)

b. Preventable accident on the part of a motor carrier. Means an accident that: (4-5-00)

i. Involved a commercial motor vehicle, and (4-5-00)

ii. Could have been averted but for an act, or failure to act, by the motor carrier or the driver. (4-5-00)

c. Reviews. For the purposes of Section 012: (4-5-00)

i. Compliance review. Means an onsite examination of motor carrier operations, which may be at the carrier’s place of business, including driver’s hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver’s license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness. (4-5-00)

(1) A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints or other evidence of safety violations. (4-5-00)

(2) A compliance review may result in the initiation of an enforcement action. (4-5-00)

ii. Safety management controls. Means the systems, policies programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations which ensure the

safe movement of products and passengers through the transportation system, and to reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage. (4-5-00)

d. Safety ratings. Means, for the purposes of this Section 012: (4-5-00)

i. Satisfactory safety rating. Means that a motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standard prescribed in Subsection 012.03 of this rule. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier. (4-5-00)

ii. Conditional safety rating. Means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in Subsection 012.03 of this rule. (4-5-00)

iii. Unsatisfactory safety rating. Means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which has resulted in occurrences listed in Subsection 012.03 of this rule. (4-5-00)

iv. Unrated carrier. Means that a safety rating has not been assigned to the motor carrier. (4-5-00)

03. Safety Fitness Standard. The satisfactory safety rating is based on the degree of compliance with the safety fitness standard for motor carriers. To meet the safety fitness standard, the motor carrier shall demonstrate that it has adequate safety management controls in place, which function effectively to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with: (4-5-00)

a. Commercial driver's license standards violations. (4-5-00)

b. Inadequate levels of financial responsibility. (4-5-00)

c. The use of unqualified drivers. (4-5-00)

d. Improper use and driving of motor vehicles. (4-5-00)

e. Unsafe vehicles operating on the highways. (4-5-00)

f. Failure to maintain accident register and copies of accident reports. (4-5-00)

g. The use of fatigued drivers. (4-5-00)

h. Inadequate inspection, repair, and maintenance of vehicles. (4-5-00)

i. Transportation of hazardous materials, driving and parking rule violations. (4-5-00)

j. Violation of hazardous materials regulations. (4-5-00)

k. Motor vehicle accidents and hazardous materials incidents. (4-5-00)

04. Factors to Be Considered in Determining a Safety Rating. The factors to be considered in determining the safety fitness and assigning a safety rating include information from safety reviews, compliance reviews and any other data. The factors may include all or some of the following: (4-5-00)

a. Adequacy of safety management controls. The adequacy of controls may be questioned if their degree of formalization or automation is found to be substantially below the norm for similar carriers. Violations, accidents or incidents substantially above the norm for similar carriers will be strong evidence that management controls are either inadequate or not functioning properly. (4-5-00)

b. Frequency and severity of regulatory violations. (4-5-00)

- c. Frequency and severity of driver/vehicle regulatory violations identified in roadside inspections. (4-5-00)
- d. Number and frequency of out-of-service driver/vehicle violations. (4-5-00)
- e. Increase or decrease in similar types of regulatory violations discovered during safety or compliance reviews. (4-5-00)
- f. Frequency of accidents; hazardous materials incidents; accident rate per million miles; preventable accident rate per million miles; and other accident indicators; and whether these accident and incident indicators have improved or deteriorated over time. (4-5-00)
- g. The number and severity of violations of state safety rules, regulations, standards, and orders applicable to commercial motor vehicles and motor carrier safety that are compatible with Federal rules, regulations, standards and orders. (4-5-00)

05. Determination of Safety Fitness. Following a compliance review of a motor carrier operation, the Idaho State Police Commercial Vehicle Safety Program Manager, using the factors prescribed in Subsection 012.04 of this rule, shall determine whether the present operations of the motor carrier are consistent with the safety fitness standards set forth in Subsection 012.03 of this rule. ~~(4-5-00)~~(____)

06. Notification of a Safety Fitness Rating. Following a compliance review, the Idaho State Police Commercial Vehicle Safety Program Manager will determine the safety fitness of a motor carrier and notify the motor carrier and the Department in writing. Notification will include a list of those items for which immediate corrective actions must be taken. ~~(4-5-00)~~(____)

07. Motor Carrier Certification. Upon notification of violations cited in the compliance review and recommendations made to correct violations a motor carrier shall certify to the Idaho State Police Commercial Vehicle Safety Program Manager, within thirty (30) days, whether all corrective actions identified by the safety review have been taken. Certification required by this subsection must be made to the Idaho State Police Commercial Vehicle Safety Program Manager. Failure to certify or falsely certifying under Section 012 of this Chapter will be considered a reporting violation under Section 67-2901B(3), Idaho Code. (4-5-00)

013. -- 017. (RESERVED).

018. TRANSPORTATION OF HAZARDOUS MATERIALS, SUBSTANCES, AND WASTES (RULE 18).

01. Adoption of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, removes that exemption and subjects intrastate carriers to the same requirements. The Department asserts its authority under this Rule, IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-670 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (4-5-00)

02. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate carriers subject to this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must obtain copies of these federal regulations and make them available to their drivers and other personnel handling

hazardous materials, substances or wastes and must familiarize their drivers and other personnel handling hazardous materials, substances or wastes with any regulation pertaining to the particular material, substance or waste that is transported. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Failure to be familiar with these federal regulations adopted by reference is a violation of Section 018 of this Chapter for any carrier transporting such cargoes. The federal regulations adopted by reference in this Section 018 have the following subject matter: (4-5-00)

- a. Part 107. Hazardous Materials Program Procedures. (4-5-00)
- b. Part 171. General Information, Regulations and Definitions. (4-5-00)
- c. Part 172. Hazardous Materials Tables, ~~and special provisions, Hazardous Materials~~ ~~Communications Regulations, emergency response information, and training requirements.~~ (4-5-00)()
- d. Part 173. Shippers-General Requirements for Shipments and Packaging. (4-5-00)
- e. Parts 174-176. (Not adopted regulations for railroads, aircraft and vessels). (4-5-00)
- f. Part 177. Carriage by Public Highway. (4-5-00)
- g. Part 178. ~~Shipping Container~~ Specifications for packagings. (4-5-00)()
- h. Part 179. (Not adopted regulations for rail tanker cars). (4-5-00)
- i. Part 180. Continuing Qualification and Maintenance of Packagings. (4-5-00)()

03. Recognition of Federal Waivers. Whenever a carrier has applied to a federal agency and been granted a waiver of the packaging requirements of the federal regulations adopted in Subsection 018.01, the federal waiver will also be recognized under these rules. The Department will not administer a program to duplicate consideration or approval of federal waivers on the state level. (4-5-00)

04. Hazardous Materials. As used here in Section 018, means a substance or material, ~~including a that~~ the Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce and has designated as hazardous under section 5103 of the Federal hazardous materials transportation law (49 U.S.C. 5103). The term includes hazardous substances, ~~listed by the U.S. Department of Transportation~~ hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the "Hazardous Materials Table" (see 49 CFR 172.101), ~~which has been determined to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce. Hazardous materials listed include:~~ and materials that meet the defining criteria for hazard classes and divisions in Part 173 of Subchapter C of Title 49 of the Code of Federal Regulations. (4-5-00)()

- ~~a. Radioactive materials;~~ (4-5-00)
- ~~b. Explosives, poisons;~~ (4-5-00)
- ~~c. Flammable liquids;~~ (4-5-00)
- ~~d. Flammable solids or flammable gases;~~ (4-5-00)
- ~~e. Combustible liquids;~~ (4-5-00)
- ~~f. Compressed gases;~~ (4-5-00)
- ~~g. Blasting agents;~~ (4-5-00)

h.	Oxidizers;	(4-5-00)
i.	Corrosives;	(4-5-00)
j.	Severely irritating materials; or	(4-5-00)
k.	Materials with combinations of these properties.	(4-5-00)

05. Hazardous Substances. As used in this Section 018, means a material, its mixtures or solutions, that is listed in the Appendix A to 49 CFR 172.101 and that is in a quantity in one (1) package that equals or exceeds the reportable quantity (RQ) listed in the Appendix A to 49 CFR 172.101. ~~(4-5-00)~~(____)

06. Hazardous Waste. As used in this Section 018, means any material that is subject to the Hazardous Waste Manifest requirements of the U.S. Environmental Protection Agency. See 40 CFR Part 262. (4-5-00)

07. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 018 are those contained in the compilations of 40 CFR Part 262 published in the Code of Federal Regulations volume dated July 1, 1998, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1998, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. (4-5-00)

019. CARRIER SAFETY REQUIREMENTS (RULE 19).

01. Adoption of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. (3-30-07)

a. All interstate and foreign carriers and intrastate carriers, except those carriers listed in Subsection 019.01.b., subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-30-07)

b. Intrastate carriers operating commercial motor vehicles transporting property with a GVW, GVWR, GCW or GCWR greater than ten thousand (10,000) pounds and up to twenty-six thousand (26,000) pounds, subject to the authority of the Idaho State Police, must comply with 49 CFR Part 390 Subpart A, Part 391.15, Parts 392, 393, and Part 396.1, 396.3(a), (a)(1), and (a)(2), and 396.5 through 396.9 and the law and rules of the state of Idaho. All intrastate carriers transporting placardable quantities of hazardous material under 49 CFR Part 172, Subpart F and passengers, meeting the definition of a commercial motor vehicle, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-30-07)

c. The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. (3-30-07)

02. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel

affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (4-5-00)

- Regulations.
- a. Part 356. ~~Authority to Serve a Particular Section — Construction~~ Motor Carrier Routing (3-20-04)(____)
 - b. Part 365. ~~How to Apply~~ Rules Governing Application for Operating Authority. (3-20-04)(____)
 - c. Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
 - d. Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)
 - e. Part 385. Safety Fitness ~~Standards~~ Procedures. (4-5-00)(____)
 - f. Part 387. Minimum Levels of Financial Responsibility. (3-20-04)(____)
 - g. Part 388. Cooperative Agreements with States. (4-5-00)
 - h. Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)
 - i. Part 391. Qualifications of Drivers. (4-5-00)
 - j. Part 392. Driving of Commercial Motor Vehicles. (4-5-00)(____)
 - k. Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)
 - l. Part 395. Hours of Service of Drivers. (4-5-00)
 - m. Part 396. Inspection, Repair and Maintenance. (4-5-00)
 - n. Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)
 - o. Part 398. Transportation of Migrant Workers. (4-5-00)
 - p. Part 399. Employee Safety and Health Standards. (4-5-00)

03. Recognition of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-5-00)

04. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Subsection 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, 390 through ~~394, and 396 through~~ 399 published in the Code of Federal Regulations volumes dated October 1, 2002; ~~and Part 393 published in the Code of Federal Regulations volumes dated January 4, 2004, and Part 395 published in the Code of Federal Regulations volume dated August 25, 2005.~~ (3-30-07)(____)

05. Availability of Incorporated Documents. The 49 CFR's can be found at www.fmcsa.dot.gov or copies may be viewed at the ~~central~~ office of the Idaho State Police. (3-20-04)(____)

IDAPA 11 - IDAHO STATE POLICE

11.07.01 - RULES GOVERNING MOTOR VEHICLES - GENERAL RULES

DOCKET NO. 11-0701-0901

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-2901 and 49-901, 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 September 16, 2009.

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

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

This rulemaking updates the standards and specifications applicable to Title 49 - Motor Vehicles, Chapter 9 - Vehicle Equipment, Idaho Code, that are incorporated by reference into this rule to current standards and specifications in federal guidelines.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: No fee or charge is imposed or increased.

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:

No negative fiscal impact on the general fund will result from this change.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rulemaking only updates references.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt. Bill Reese, (208) 884-7220 or william.reese@isp.idaho.gov.

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 September 23, 2009.

DATED this 14th day of July, 2009.

Colonel G. Jerry Russell
Director
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83643
(208) 884-7003
(208) 884-7090

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 11-0701-0901

006. DEFINITIONS (RULE 6).

- 01. Department.** The "Department," as used herein, means the Idaho State Police. (7-1-93)
- 02. Director.** The "Director," as used herein, means the Director of the Idaho State Police. (7-1-93)
- 03. Motor Vehicle.** Will be the same as the definition found in Idaho Code 49-123~~(2)(g)~~.
(4-2-08)(____)
- 04. Highway.** Will be the same as the definition found in Section 49-109~~(4)~~, Idaho Code.
(4-2-08)(____)

(BREAK IN CONTINUITY OF SECTIONS)

020. SOCIETY OF AUTOMOTIVE ENGINEERS (SAE) (RULE 20).

The Director incorporates by reference the SAE Ground Vehicle Lighting Standards Manual, 2006~~9~~ edition, and SAE standards J586, J588, and J639. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable provisions of the SAE Ground Vehicle Lighting Standards Manual, 2006 edition, and SAE standards J586, J588, and J639. (4-2-08)(____)

01. Standards and Specifications for Lighting Devices. Pursuant to Section 49-901(1), Idaho Code, the Director hereby incorporates by reference the standards and specifications set forth by the Society of American Engineers in the SAE Ground Vehicle Lighting Standards Manual, 2006~~9~~ edition, as if set forth herein in full. (4-2-08)(____)

02. Standards for Rear Mounted Acceleration and Deceleration Lighting Systems (Use Optional). The current standards found in "Supplemental High Mounted Stop and Rear Turn Signal Lamps for Use on Vehicles Less Than 2032 MM Overall Width -- SAE J586 and J588," is found in Section 49-921, Idaho Code, as if set forth herein in full. (4-2-08)

03. Safety Practices and Standards for Automotive Air Conditioning Devices, Standards and Specifications. Pursuant to Section 49-901(7), Idaho Code, the Director hereby incorporates by reference the current standards set forth in "Safety Practices For Mechanical Vapor Compression Refrigeration Equipment of Systems Used to Cool Passenger Compartment of Motor Vehicles -- SAE J639," as if set forth herein in full. (4-2-08)

021. -- 029. (RESERVED).

030. IDAHO STATE DEPARTMENT OF EDUCATION, STANDARDS FOR IDAHO SCHOOL BUSES AND OPERATIONS MANUAL (RULE 30).

The Director incorporates by reference the standards found in the November ~~17~~, 2006~~8~~ "Standards for Idaho School Buses and Operations" manual approved by the Idaho State Board of Education. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable standards found in the "Standards for Idaho School Buses and Operations" manual. (4-2-08)(____)

01. General Rules. Pursuant to Section 49-901(8), Idaho Code, the Director hereby incorporates by reference the standards found in the November ~~17~~, 2006~~8~~ "Standards for Idaho School Buses and Operations" manual approved by the Idaho State Department of Education as if set forth herein in full. (4-2-08)(____)

02. Lighting Equipment. Pursuant to Section 49-901(2), Idaho Code, the Director hereby incorporates by reference the standards found in the November ~~17~~, 2006~~8~~ "Standards for Idaho School Buses and Operations" manual approved by the Idaho State Department of Education as if set forth herein in full. (4-2-08)(____)

031. -- 039. (RESERVED).

040. FEDERAL REGULATIONS - 49 C.F.R. PARTS 392, 393, AND 571 (RULE 40).

The Director incorporates by reference Title 49 of the Code of Federal Regulations, October 1, 2007~~8~~ edition, Parts 392, 393, and 571. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable Parts found in Title 49 of the Code of Federal Regulations. (4-2-08)(____)

01. Certain Vehicles Required to Stop at All Railroad Crossings. Pursuant to Section 49-648, Idaho Code, the Director hereby incorporates by reference the requirements found in Title 49 (49 C.F.R.) of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) Part 392, Subpart B, Section 392.10, as if set forth herein in full. (4-2-08)

02. Devices With Self Contained Energy Sources. Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to Requirements for fuses and liquid burning flares found in 49 C.F.R., Part 393, Subpart H, Section 393.95. Warning devices with self-contained energy sources permissible, under this chapter are limited to liquid burning emergency flares, and fuses. (4-2-08)

03. Modulating Headlights for Motorcycles. Pursuant to Section 49-925, 49-901(3), 49-901(4), Idaho Code, the Director hereby approves modulating headlights for use on motorcycles. Such headlights shall conform to the standards and specifications with regard to modulating headlights found in 49 C.F.R. Section 571.108, Standard 108, S7.9.4, which is hereby adopted by reference as if set forth herein in full. (4-2-08)

04. Standards for Safety Helmets. Pursuant to Section 49-666, Idaho Code, the Director hereby incorporates by reference the standards found in 49 C.F.R. Section 571.218, Standard No. 218, as if set forth herein in full. (4-2-08)

05. Standards for Devices Without Self Contained Energy Sources. Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to ~~flares and~~ reflex reflective and fluorescent material warning devices found in 49 C.F.R. Section 571.125, Standard 125, as if set forth herein in full. (4-2-08)(____)