

Dear Senators HAMMOND, Brackett, Werk, and
Representatives PALMER, Ellsworth, Ringo:

The Legislative Services Office, Research and Legislation, has received the enclosed rule of the
Idaho State Police (Motor Carriers):

IDAPA 11.13.01 - Rules Pertaining To The Rules Governing Motor Carriers - Proposed Rule (Docket
No. 11-1301-1201).

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 11/20/2012. 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 12/20/2012.

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 334-4845, or send a written request to the address on the
memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Principal Legislative Research Analyst - Eric Milstead

DATE: November 01, 2012

SUBJECT: Idaho State Police (Motor Carriers)

IDAPA 11.13.01 - Rules Pertaining To The Rules Governing Motor Carriers - Proposed Rule (Docket No. 11-1301-1201)

The Idaho state police has submitted proposed rulemaking at IDAPA 11.13.01 - Rules Pertaining To The Rules Governing Motor Carriers - Proposed Rule (Docket No. 11-1301-1201). This proposed rule makes one simple change to the current rule: it provides an update to the incorporation by reference of the Code of Federal Regulations (CFR) relating to commercial motor vehicles and their hours of operation and restrictions on the use of hand held devices. (Rule 19.04). The updated version of the CFR is dated March 1, 2012.

The agency states that negotiated rulemaking was not conducted because the proposed rule simply aligns with updated federal regulations already implemented.

It appears that the proposed rule is authorized pursuant to section 67-2901A, Idaho Code.

cc: Idaho State Police
Colonel G. Jerry Russell & Lt. Jim Eavenson

IDAPA 11 - IDAHO STATE POLICE
11.13.01 - RULES GOVERNING MOTOR CARRIERS
DOCKET NO. 11-1301-1201
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 67-2901A 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 November 21, 2012.

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 rule change updates the incorporation by reference of the Code of Federal Regulations pertaining to the commercial federal regulations governing commercial motor vehicles and, specifically, hours of service and the restricted use of hand held devices.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because amendment of this rule aligns it with federal regulations that have already been implemented.

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: Updates the incorporation by reference of the CFR regarding hours of service and the restricted use of hand held devices for commercial motor vehicles

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt. Jim Eavenson, 884-7048 or james.eavenson@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 November 28, 2012.

DATED this 25th day of October, 2012

Colonel G. Jerry Russell
Director
Idaho State Police
700 S. Stratford
P. O. Box 700
Meridian, ID 83680-0700
phone: 208-884-7000
fax 208-884-7090

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.
The temporary effective date is March 1, 2012.

The original text of the temporary rule was published in the Idaho Administrative Bulletin,
Volume 12-5, May 2, 2012, pages 62 through 64.

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1301-1201

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)

- a.** Part 356. Motor Carrier Routing Regulations. (3-29-10)
- b.** Part 365. Rules Governing Application for Operating Authority. (3-29-10)
- 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 Procedures. (3-29-10)
- f. Part 387. Minimum Levels of Financial Responsibility. (3-29-10)
- 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. (3-29-10)
- 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 ~~Sub~~section 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated ~~October 1, 2008~~ March 1, 2012. (3-29-10)()

05. Availability of Incorporated Documents. The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at www.fmcsa.dot.gov or copies may be viewed at the office of the Idaho State Police. (3-29-10)