

Dear Senators BRACKETT, Hagedorn, Buckner-Webb, and  
Representatives PALMER, Shepherd, King:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Idaho State Police - Idaho State Police - Motor Carrier:  
IDAPA 11.13.01 - The Motor Carrier Rules - Temporary and Proposed (Docket No. 11-1301-1601);  
IDAPA 11.13.01 - The Motor Carrier Rules - Proposed Rule (Docket No. 11-1301-1602);  
IDAPA 11.13.01 - The Motor Carrier Rules - Proposed Rule (Docket No. 11-1301-1603).

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 10/25/2016. 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 11/23/2016.

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 Transportation Committee and the House Transportation & Defense Committee

**FROM:** Deputy Division Manager - Katharine Gerrity

**DATE:** October 05, 2016

**SUBJECT:** Idaho State Police - Idaho State Police - Motor Carrier

IDAPA 11.13.01 - The Motor Carrier Rules - Temporary and Proposed (Docket No. 11-1301-1601)

IDAPA 11.13.01 - The Motor Carrier Rules - Proposed Rule (Docket No. 11-1301-1602)

IDAPA 11.13.01 - The Motor Carrier Rules - Proposed Rule (Docket No. 11-1301-1603)

#### **1. IDAPA 11.13.01 - The Motor Carrier Rules**

The Idaho State Police submit notice of temporary and proposed rule at IDAPA 11.13.01 - The Motor Carrier Rules. The effective date of the temporary rule was September 15, 2016. According to ISP, Idaho has adopted the Federal Hazardous Material Regulations and Federal Motor Carrier Safety Regulations by reference. ISP notes that at the time the legislature approved such adoption in 2015, it requested ISP reformat the rules and clarify how the rules are adopted. ISP indicates that during the 2016 session, the Senate Transportation Committee observed the need to reference Section 49-2212, Idaho Code, in Rule 018 which adopts changes to federal regulations regarding the transportation of hazardous materials, substances and waste. Section 49-2212, Idaho Code, provides for the adoption of changes to the regulations as they occur. ISP goes on to state that this rule references Section 49-2212, Idaho Code that provides for the adoption of the Federal Hazardous Materials Regulations as changes occur by operation of law and incorporates by reference the latest amendments.

ISP states that negotiated rulemaking was not conducted because states are required to adopt the rules by reference to remain in compliance with the Federal Motor Carrier Safety Administration. The rulemaking appears to be authorized pursuant to Sections 67-2901 and 49-901, Idaho Code.

#### **2. IDAPA 11.13.01 - The Motor Carrier Rules**

The Idaho State Police submit notice of proposed rule at IDAPA 11.13.01 - The Motor Carrier Rules. According to ISP, it has not previously adopted 49 CFR Part 380 which identifies the necessary training for the safe operation of drivers operating long combination vehicles (LCVs). ISP notes that LCVs are a combination of a tractor and two or three trailers that require a more skilled driver for safe operation. ISP goes on to state that, currently, only a written exam is required of these drivers. ISP notes that in 2016, the legislature allowed for

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

over-legal weight permits of up to 129,000 pounds and that Idaho will see an increase in LCVs. ISP states that adoption of 49 CFR 380 will require LCV drivers and instructors to meet minimum qualification requirements. ISP indicates that the rule change does include a grandfather clause for those drivers that meet the requirements of Part 380.111, such as if they have been operation an LCV during the previous two years. ISP states that the rule will assist in the safe operation of LCVs on Idaho roadways.

ISP indicates that negotiated rulemaking was not conducted because of the simple nature of the changes and the fact that representatives of the affected interests were involved in the drafting and approval of the rule. The rulemaking appears to be authorized pursuant to Section 67-2901, Idaho Code.

### **3. IDAPA 11.13.01 - The Motor Carrier Rules**

The Idaho State Police submit notice of proposed rule at IDAPA 11.13.01 - The Motor Carrier Rules. According to ISP, with some exceptions, all motor carriers and drivers who are currently required to complete paper logs to document record of duty status (RODS) to comply with 49 CFR 395, will be required to use electronic logging devices (ELDS) no later than December 18, 2017. ISP notes there are several exceptions including drivers who use paper RODS for not more than eight days during any 30 day period, drivers who conduct driveaway-towaway operations, where the vehicle being driven is the commodity being delivered, and drivers of vehicles manufactured before model year 2000. ISP notes that the exempted drivers still have to document RODS using either paper logs or ELDS unless they fall under exemptions to RODS that are in 49 CFR 395 currently. ISP also states that we are required to adopt this regulation by reference to maintain compliance with Federal Motor Carrier Safety Administration and remain eligible for grant and highway funds.

ISP indicates that negotiated rulemaking was not conducted due to the simple nature of the rule and the fact that representatives of the affected interests were involved in the drafting and approval of the rule. The rulemaking appears to be authorized pursuant to Section 67-2901, Idaho Code.

cc: Idaho State Police - Idaho State Police - Motor Carrier  
Tim Horn

## **IDAPA 11 - IDAHO STATE POLICE**

### **11.13.01 - THE MOTOR CARRIER RULES**

**DOCKET NO. 11-1301-1601**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is September 15, 2016.

**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 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 October 19, 2016.

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:

Idaho adopts the Federal Hazardous Material Regulations and Federal Motor Carrier Safety Regulations by reference. The Idaho Legislature approved the adoption of 49 CFR Part 386 during the 2015 session, but requested ISP reformat the rules and clarify how the rules are adopted.

During the 2016 Legislative Session, the committees observed the need to reference Section 49-2212, Idaho Code, in Rule 018, which adopts by statute changes to Federal Regulations regarding the transportation of hazardous materials, substances, and waste. Section 49-2212, Idaho Code, provides for the adoption of changes to the Federal Hazardous Materials Regulations as the changes occur.

This rule references Section 49-2212, Idaho Code, that provides for the adoption of the Federal Hazardous Materials Regulations as the changes to those regulations occur by operation of law and incorporates by reference the latest amendments to 49 CFR Parts 356, 365, 382, 383, 385, 386, 387, 388, 390 through 399, dated October 21, 2015.

**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 amendment clarifies that Section 49-2212, Idaho Code, adopts the Federal Hazardous Materials Regulations by reference and adopts changes to those regulations as they occur by operation of law. The reference to the statute in the rule was requested by the Senate Transportation Committee during the 2016 legislative session.

**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:

Adoption of these rules will not affect general or dedicated funds. If the rule is not adopted, Idaho could sustain a reduction in federal grant funding as well as have a negative impact on dedicated funding.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because states are required to adopt these rules by reference to remain in compliance with the Federal Motor Carrier Safety Administration (FMCSA). The rules were adopted by FMCSA in compliance with the federal law and are published in the Federal Register and the Code of Federal Regulations.

**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:

All states adopt the Federal Motor Carrier Safety Regulations for interstate transportation; otherwise, a driver would have to comply with different rules in each state. Standardized rules provide for consistent transportation safety nationwide.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Capt. Tim Horn, Idaho State Police Commercial Vehicle Safety (208) 884-7220 or [tim.horn@isp.idaho.gov](mailto:tim.horn@isp.idaho.gov).

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 26, 2016.

DATED this 1st day of September, 2016.

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

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 11-1301-1601  
(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE (RULE 4).**

In accordance with Section 67-5229, Idaho Code, the following sections of the Code of Federal Regulations, specifically 49 CFR, and 40 CFR are herein incorporated by reference: (3-25-16)

**01. Safety Fitness Procedures (See Rule 12).** Adoption of Federal Regulations, 49 CFR subtitle, chapter III. subchapter B - Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I. subchapter C- Hazardous Materials Regulations. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (3-25-16)

**02. Transportation of Hazardous Materials, Substances, and Wastes (See Rule 18).** Adoption of Federal Regulations. 40 CFR Part 262 and 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 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. (3-25-16)

**a.** Version of Federal Regulations Adopted. [Per Section 49-2212, Idaho Code,](#) 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 recom piled, 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 recom piled, and all amendments to these rules appearing in the

Federal Registers. 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. ~~(3-25-16)~~(9-15-16)T

**03. Carrier Safety Requirements (See Rule 19).** Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 386, 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. (3-25-16)

**a.** Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 386, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated ~~March 31, 2014~~ October 21, 2015. ~~(3-25-16)~~(9-15-16)T

**04. Availability of Incorporated Documents.** The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov) or copies may be viewed at the office of the Idaho State Police. (3-25-16)

## **INCORPORATION BY REFERENCE SYNOPSIS**

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

***IDAPA 11 - IDAHO STATE POLICE  
IDAPA 11.13.01 - THE MOTOR CARRIER RULES  
Proposed Rulemaking - Docket No. 11-1301-1601***

Currently Idaho automatically adopts changes in the Federal Motor Carrier Regulations involving hazardous materials per Idaho Code 49-2212. We are adding the language “**Per section 49-2212, Idaho Code**” to Rule 18 **Transportation of Hazardous Materials, Substances, and Waste** to better clarify the authority to adopt by reference.

**IDAPA 11 - IDAHO STATE POLICE**  
**11.13.01 - THE MOTOR CARRIER RULES**  
**DOCKET NO. 11-1301-1602**  
**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 19, 2016.

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:

The Idaho State Police adopts the Federal Motor Carrier Safety Regulations (FMCSR) by reference. ISP has not previously adopted 49 CFR Part 380, which identifies the necessary training for the safe operation of driver's operating long combination vehicles (LCV). An LCV is a combination of a tractor and two or three trailers that requires a more skilled driver for safe operation. Currently, other than completing a written exam, Idaho has no driver training requirements. Upon completion of the written exam, the Idaho CDL driver receives an endorsement and is allowed to begin driving LCV's with no behind-the-wheel training.

With the change in Idaho's over-legal weight permits of up to 129,000 pounds that are part of the Idaho Transportation Department's administrative rules, Idaho will see an increase in large LCV's. The adoption of Part 380, 49 CFR 380, will require LCV drivers and instructors to meet minimum qualification requirements. LCV drivers would be able to apply for a Grandfather Clause if they meet the requirements listed in Part 380.111, such as if they have been operating an LCV during the previous 2 years of the application. If the driver meets the Grandfather Clause requirements, he/she will not need to complete the LCV training.

The adoption of this rule will assist in the safe operation of LCV's on Idaho roadways by making sure drivers have sufficient training with a qualified instructor before being released to operate LCV's. This will affect most over-legal permits that will be issued by ITD. All interstate carriers have been required to comply with Part 380 for over a decade, so many carriers are already complying.

**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 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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Captain Tim Horn, Idaho State Police Commercial Vehicle Safety at (208) 884-7220 or [tim.horn@isp.idaho.gov](mailto:tim.horn@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 October 26, 2016.

DATED this 1st day of September, 2016.



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

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1301-1602**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE (RULE 4).**

In accordance with Section 67-5229, Idaho Code, the following sections of the Code of Federal Regulations, specifically 49 CFR, and 40 CFR are herein incorporated by reference: (3-25-16)

**01. Safety Fitness Procedures (See Rule 12).** Adoption of Federal Regulations, 49 CFR subtitle, chapter III. subchapter B - Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I. subchapter C-Hazardous Materials Regulations. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (3-25-16)

**02. Transportation of Hazardous Materials, Substances, and Wastes (See Rule 18).** Adoption of Federal Regulations. 40 CFR Part 262 and 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 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. (3-25-16)

**a.** 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. 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. (3-25-16)

**03. Carrier Safety Requirements (See Rule 19).** Adoption of Federal Regulations 49 CFR Parts 356, 365, ~~380~~, 382, 383, 385, 386, 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. ~~(3-25-16)~~(    )

**a.** Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 019 are those contained in the compilation of 49 CFR Parts 356, 365, ~~380~~, 382, 383, 385, 386, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated ~~March 31, 2014~~ October 21, 2015.

~~(3-25-16)~~ ( )

**04. Availability of Incorporated Documents.** The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov) or copies may be viewed at the office of the Idaho State Police. (3-25-16)

**(BREAK IN CONTINUITY OF SECTIONS)**

**019. CARRIER SAFETY REQUIREMENTS (RULE 19).**

**01. Adoption of Federal Regulations - Exceptions.** (3-25-16)

**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 380. Longer Combination Vehicle (LCV) Driver-Training and Driver-Instructor Requirements. ( )
- d.** Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
- e.** Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)
- f.** Part 385. Safety Fitness Procedures. (3-29-10)
- g.** Part 386.71-84. Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings. (4-11-15)
- h.** Part 387. Minimum Levels of Financial Responsibility. (3-29-10)

- hi.** Part 388. Cooperative Agreements with States. (4-5-00)
- ij.** Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)
- jk.** Part 391. Qualifications of Drivers. (4-5-00)
- kl.** Part 392. Driving of Commercial Motor Vehicles. (3-29-10)
- lm.** Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)
- mn.** Part 395. Hours of Service of Drivers. (4-5-00)
- no.** Part 396. Inspection, Repair and Maintenance. (4-5-00)
- op.** Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)
- pq.** Part 398. Transportation of Migrant Workers. (4-5-00)
- qr.** 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. Availability of Incorporated Documents.** The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov) or copies may be viewed at the office of the Idaho State Police. (3-29-10)

## **INCORPORATION BY REFERENCE SYNOPSIS**

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

***IDAPA 11 - IDAHO STATE POLICE  
IDAPA 11.13.01 - THE MOTOR CARRIER RULES  
Proposed Rulemaking - Docket No. 11-1301-1602***

Idaho has never adopted by reference 49 CFR Part 380, which identifies the necessary training for the safe operation of driver's operating long combination vehicles (LCV). The adoption of 49 CFR 380 will require LCV drivers and instructors to meet minimum qualification requirements. LCV drivers would be able to apply for a Grandfather Clause if they meet the requirements listed in Part 380.111, such as if they have been operating an LCV during the previous 2 years of the application. If the driver meets the Grandfather Clause requirements he/she will not need to attend the LCV training. All interstate carriers have been required to comply with Part 380 for over a decade, so many carriers are already complying. With the change in Idaho's over-legal weight permits of up to 129,000 pounds this will help increase the safe operation of LCV's.

**IDAPA 11 - IDAHO STATE POLICE**  
**11.13.01 - THE MOTOR CARRIER RULES**  
**DOCKET NO. 11-1301-1603**  
**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 19, 2016.

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:

With some exceptions all motor carriers and drivers, who are currently required to complete paper logs to document record of duty status (RODS) to comply with 49 CFR 395, will be required to use ELD's no later than December 18, 2017. However, the final federal rule exempts several sectors from the ELD requirement as follows:

- Drivers who use paper RODS for not more than 8 days during any 30 day period;
- Drivers who conduct driveaway-towaway operations, where the vehicle being driven is the commodity being delivered; and
- Drivers of vehicles manufactured before model year 2000.

These exempted drivers must still document RODS using either paper logs or ELD's, whichever they choose. There are no changes to drivers or carriers who meet the current exemptions from RODS as listed in 49 CFR 395 and Idaho Code 67-2901B(2).

Idaho is required to adopt this regulation by reference to maintain compliance with Federal Motor Carrier Safety Administration (FMCSA) and remain eligible for grant and highway funds.

**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 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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Captain Tim Horn, Idaho State Police Commercial Vehicle Safety at (208) 884-7220 or [tim.horn@isp.idaho.gov](mailto:tim.horn@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 October 26, 2016.

DATED this 1st day of September, 2016.

Colonel Ralph W. Powell, Director  
Idaho State Police  
700 S. Stratford Dr.  
Meridian, ID 83642  
(208) 884-7003/(208) 884-7090  
Colonel Ralph W. Powell, Director  
Idaho State Police  
700 S. Stratford Dr.  
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**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1301-1603**  
**(Only Those Sections With Amendments Are Shown.)**

**004. INCORPORATION BY REFERENCE (RULE 4).**

In accordance with Section 67-5229, Idaho Code, the following sections of the Code of Federal Regulations, specifically 49 CFR, and 40 CFR are herein incorporated by reference: (3-25-16)

**01. Safety Fitness Procedures (See Rule 12).** Adoption of Federal Regulations, 49 CFR subtitle, chapter III, subchapter B - Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I, subchapter C - Hazardous Materials Regulations. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recompilations are also adopted by reference, but subsequent amendments are not. (3-25-16)

**02. Transportation of Hazardous Materials, Substances, and Wastes (See Rule 18).** Adoption of Federal Regulations. 40 CFR Part 262 and 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 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. (3-25-16)

**a.** 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. 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. (3-25-16)

**03. Carrier Safety Requirements (See Rule 19).** Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 386, 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.

(3-25-16)

**a.** Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 386, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated ~~March 31, 2014~~ October 21, 2015.  
(3-25-16)( )

**04. Availability of Incorporated Documents.** The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov) or copies may be viewed at the office of the Idaho State Police.  
(3-25-16)

## **INCORPORATION BY REFERENCE SYNOPSIS**

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently of full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here under the docket number specified:

***IDAPA 11 - IDAHO STATE POLICE  
IDAPA 11.13.01 - THE MOTOR CARRIER RULES  
Proposed Rulemaking - Docket No. 11-1301-1603***

Currently most commercial vehicle drivers and motor carriers are required to complete paper or electronic logs to document record of duty status (RODS) as listed in 49 CFR 395. The proposed change would require motor carriers and drivers who already have to complete RODS to use an Electronic Logging Device (ELD) to record RODS no later than December 18, 2017. However, the final rule exempts several sectors from the ELD requirement: 1) Drivers who use paper RODS for not more than 8 days during any 30 day period. 2) Driver's who conduct driveaway-towaway operations, where the vehicle being driven is the commodity being delivered. 3) Drivers of vehicles manufactured before model year 2000. These exempted drivers must still document RODS using either paper logs or ELD's, whichever they choose. There are no changes to drivers or carriers who meet the current exemptions from RODS as listed in 49 CFR 395 and Idaho Code 67-2901B(2).