

IDAPA 11 – IDAHO STATE POLICE

Commercial Vehicle Safety

11.13.01 – The Motor Carrier Rules

Who does this rule apply to?

Intrastate motor carriers and interstate or foreign carriers (where provided for in rule).

What is the purpose of this rule?

This rule provides for commercial vehicle safety and further defines safety fitness procedures and standards, hazardous materials, substances, and wastes, carrier safety requirements, and proof of obedience and compliance with rules and regulations.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statute passed by the Idaho Legislature:

State Government and State Affairs -

Idaho State Police:

- [Section 67-2901, Idaho Code](#) – Idaho State Police Created – Director – Divisions – Powers and Duties – Failure of Peace Officers to Obey Orders, Misdemeanor – Deputies – Compensation and Powers

Who do I contact for more information on this rule?

Idaho State Police

Commercial Vehicle Safety

Monday through Friday, 8:00 a.m. to 5:00 p.m.

700 S. Stratford Drive, Suite 125

Meridian, ID 83642

Phone: (208) 884-7100

Fax: (208) 884-7290

Email: adminrules@isp.idaho.gov

Web: <https://isp.idaho.gov/cvs>

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11.13.01 – THE MOTOR CARRIER RULES

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67-2901A, Idaho Code. (3-23-22)

001. SCOPE.

These rules apply to intrastate motor carriers under the jurisdiction of the Idaho State Police and, when provided in the rule, to interstate or foreign carriers providing transportation of persons or property over highways of the state of Idaho by motor vehicles in the furtherance of their business or for hire. (3-23-22)

002. INCORPORATION BY REFERENCE.

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: (3-23-22)

01. Safety Fitness Procedures (See Section 012). 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. (3-23-22)

02. Transportation of Hazardous Materials, Substances, and Wastes (See Section 018). 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. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, Section 018 removes that exemption and subjects intrastate carriers to the same requirements. The Department asserts its authority under 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. (3-23-22)

a. Version of Federal Regulations Adopted. Per Section 49-2212, Idaho Code, the federal regulations adopted by reference in Section 018 of these rules, 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. (3-23-22)

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, the rule at Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 of these rules 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. (3-23-22)

a. Version of Federal Regulations Adopted. The federal regulations adopted by reference in Section 019 of these rules, 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 October 15, 2020, 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. (3-23-22)

04. Availability of Incorporated Documents. The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at www.fmcsa.dot.gov. (3-23-22)

003. -- 007. (RESERVED)

008. FORMS.

The Idaho State Police Commercial Vehicle Safety Program Manager is authorized to produce and distribute forms and reports to carry out these rules. (3-23-22)

009. RELIEF FROM REGULATIONS.

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 of these rules 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 relieved from regulation are the same as provided in those Federal regulations. (3-23-22)

010. DEFINITIONS.

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. (3-23-22)

01. Commercial Motor Vehicle (CMV). Any self-propelled or towed motor vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle: (3-23-22)

a. 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-six kilograms (4,536 kg.), (ten thousand, one pounds (10,001 lbs.)) or more, whichever is greater; or (3-23-22)

b. Is designed or used to transport more than eight (8) passengers, including the driver, for compensation; or (3-23-22)

c. Is designed or used to transport more than fifteen (15) passengers, including the driver, and is not used to transport passengers for compensation; or (3-23-22)

d. Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, Subtitle B, Chapter I, Subchapter C. (3-23-22)

02. Department. The Idaho State Police. (3-23-22)

03. Highway. Public roads, highways, and streets of the State. (3-23-22)

04. Interstate Carrier. Any person owning or operating 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. (3-23-22)

05. Motor Carrier. 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. (3-23-22)

06. Motor Vehicle. 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. (3-23-22)

07. Person. Any individual, firm, co-partnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof. (3-23-22)

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. (3-23-22)

011. (RESERVED)

012. SAFETY FITNESS PROCEDURES.

01. Purpose and Scope. (3-23-22)

a. This section establishes 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: (3-23-22)

i. To provide transportation of hazardous materials for which vehicle placarding is required in accordance with 49 CFR Part 172, subpart F; or (3-23-22)

ii. To transport more than fifteen (15) passengers, including the driver. (3-23-22)

b. All provisions of Section 012 apply to all motor carriers subject to the requirement of this subchapter. (3-23-22)

02. Definitions. The following definitions apply to Section 012. (3-23-22)

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. 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. (3-23-22)

b. Preventable accident on the part of a motor carrier. Means an accident that: (3-23-22)

i. Involved a commercial motor vehicle, and (3-23-22)

ii. Could have been averted but for an act, or failure to act, by the motor carrier or the driver. (3-23-22)

c. Reviews: (3-23-22)

i. Compliance review. 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. (3-23-22)

(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. (3-23-22)

(2) A compliance review may result in the initiation of an enforcement action. (3-23-22)

ii. Safety management controls. 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. (3-23-22)

d. Safety ratings: (3-23-22)

i. Satisfactory safety rating. 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. (3-23-22)

ii. Conditional safety rating. 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. (3-23-22)

iii. Unsatisfactory safety rating. 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. (3-23-22)

- iv. Unrated carrier. A safety rating has not been assigned to the motor carrier. (3-23-22)

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 must 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: (3-23-22)

- a. Commercial driver's license standards violations. (3-23-22)
- b. Inadequate levels of financial responsibility. (3-23-22)
- c. The use of unqualified drivers. (3-23-22)
- d. Improper use and driving of motor vehicles. (3-23-22)
- e. Unsafe vehicles operating on the highways. (3-23-22)
- f. Failure to maintain accident register and copies of accident reports. (3-23-22)
- g. The use of fatigued drivers. (3-23-22)
- h. Inadequate inspection, repair, and maintenance of vehicles. (3-23-22)
- i. Transportation of hazardous materials, driving and parking rule violations. (3-23-22)
- j. Violation of hazardous materials regulations. (3-23-22)
- k. Motor vehicle accidents and hazardous materials incidents. (3-23-22)

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: (3-23-22)

- 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. (3-23-22)
- b. Frequency and severity of regulatory violations. (3-23-22)
- c. Frequency and severity of driver/vehicle regulatory violations identified in roadside inspections. (3-23-22)
- d. Number and frequency of out-of-service driver/vehicle violations. (3-23-22)
- e. Increase or decrease in similar types of regulatory violations discovered during safety or compliance reviews. (3-23-22)
- 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. (3-23-22)
- 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. (3-23-22)

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, will 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. (3-23-22)

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. (3-23-22)

07. Motor Carrier Certification. Upon notification of violations cited in the compliance review and recommendations made to correct violations a motor carrier must 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. 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. (3-23-22)

013. -- 017. (RESERVED)

018. TRANSPORTATION OF HAZARDOUS MATERIALS, SUBSTANCES, AND WASTES.

01. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate carriers subject to 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. 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: (3-23-22)

- a.** Part 107. Hazardous Materials Program Procedures. (3-23-22)
- b.** Part 171. General Information, Regulations and Definitions. (3-23-22)
- c.** Part 172. Hazardous Materials Table, special provisions, hazardous materials communications, emergency response information, and training requirements. (3-23-22)
- d.** Part 173. Shippers-General Requirements for Shipments and Packaging. (3-23-22)
- e.** Parts 174-176. (Not adopted regulations for railroads, aircraft and vessels). (3-23-22)
- f.** Part 177. Carriage by Public Highway. (3-23-22)
- g.** Part 178. Specifications for packagings. (3-23-22)
- h.** Part 179. (Not adopted regulations for rail tanker cars). (3-23-22)
- i.** Part 180. Continuing Qualification and Maintenance of Packagings. (3-23-22)

02. 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. (3-23-22)

03. Hazardous Materials. Means a substance or material 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, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table (see 49 CFR 172.101), 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. (3-23-22)

04. Hazardous Substances. 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. (3-23-22)

05. Hazardous Waste. Means any material that is subject to the Hazardous Waste Manifest requirements of the U.S. Environmental Protection Agency. See 40 CFR Part 262. (3-23-22)

019. CARRIER SAFETY REQUIREMENTS.

01. Adoption of Federal Regulations - Exceptions. (3-23-22)

a. All interstate and foreign carriers and intrastate carriers, except those carriers listed in Subsection 019.01.b. of this rule, 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). (3-23-22)

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). (3-23-22)

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. (3-23-22)

02. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate carriers subject to Section 019, must obtain copies of the federal regulations adopted by reference in Subsection 019.01 of this rule, 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 of this rule, for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (3-23-22)

- a.** Part 356. Motor Carrier Routing Regulations. (3-23-22)
- b.** Part 365. Rules Governing Application for Operating Authority. (3-23-22)
- c.** Part 380. Longer Combination Vehicle (LCV) Driver-Training and Driver-Instructor Requirements. (3-23-22)
- d.** Part 382. Controlled Substance and Alcohol Use and Testing. (3-23-22)
- e.** Part 383. Commercial Driver's License Standards; Requirements and Penalties. (3-23-22)

- f. Part 385. Safety Fitness Procedures. (3-23-22)
- g. Part 386.71-84. Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings. (3-23-22)
- h. Part 387. Minimum Levels of Financial Responsibility. (3-23-22)
- i. Part 388. Cooperative Agreements with States. (3-23-22)
- j. Part 390. Federal Motor Carrier Safety Regulations: General. (3-23-22)
- k. Part 391. Qualifications of Drivers. (3-23-22)
- l. Part 392. Driving of Commercial Motor Vehicles. (3-23-22)
- m. Part 393. Parts and Accessories Necessary for Safe Operation. (3-23-22)
- n. Part 395. Hours of Service of Drivers. (3-23-22)
- o. Part 396. Inspection, Repair and Maintenance. (3-23-22)
- p. Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (3-23-22)
- q. Part 398. Transportation of Migrant Workers. (3-23-22)
- r. Part 399. Employee Safety and Health Standards. (3-23-22)

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 of these rules, 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. (3-23-22)

020. -- 029. (RESERVED)

030. INTERSTATE AND FOREIGN COMMERCE.

Section 018 and 019 of these rules apply to motor carriers when engaged in interstate or foreign commerce in Idaho: (3-23-22)

031. OBEDIENCE AND COMPLIANCE WITH RULES AND REGULATIONS.

01. Proof of Compliance Required. Whenever requested by an employee of this Department whose duties include enforcement of any of these rules and regulations, all motor carriers and their agents or employees are required to demonstrate proof of compliance with these rules. (3-23-22)

02. Sanctions. The failure of any motor carrier to obey and comply with these rules is just and sufficient cause for imposition of the sanctions authorized by Title 67, Chapter 29, Idaho Code. (3-23-22)

032. -- 999. (RESERVED)