

**JUDICIARY & RULES COMMITTEE**

**ADMINISTRATIVE RULES REVIEW**

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**2013 Legislative Session**

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# IDAPA 11 - IDAHO STATE POLICE

## 11.03.01 - RULES GOVERNING ALCOHOL TESTING

DOCKET NO. 11-0301-1201

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-2901, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the November 7, 2012 Idaho Administrative Bulletin, [Vol. 12-11, pages 28 through 30](#).

**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:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Matthew Gamette, ISPFS Quality Manger, 884-7217 or [matthew.gamette@isp.idaho.gov](mailto:matthew.gamette@isp.idaho.gov).

DATED this 4th day of December, 2012.

Col. G. Jerry Russell, Director  
Idaho State Police  
700 S. Stratford Dr.  
Meridian, ID 83642  
Phone: 208-884-7003  
Fax: 208-884-7090

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 67-2901, 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:

Clarifies that blood samples need to only contain a minimal concentration of sodium fluoride. The tubes in the ISP Blood Alcohol kits are prepared so that if they are filled, the sodium fluoride concentration will be ten (10) milligrams of sodium fluoride per cubic centimeter of blood. If the blood tube is not all the way full, the concentration of sodium fluoride in the tube will be greater. Having a larger concentration of sodium fluoride in the tube (due to a smaller blood collection) makes no difference because the sodium fluoride is a preservative and has no effect on the testing. Regardless of the amount of blood in the tube, there will be an adequate amount of sodium fluoride to preserve the blood sample appropriately.

**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 there is no change to the intent of the rule; the amending language removes ambiguity of interpretation regarding amount of sodium fluoride required for alcohol testing.

**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 Matthew Gamette, ISPF Quality Manager, 884-7217 or [matthew.gamette@isp.idaho.gov](mailto:matthew.gamette@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.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0301-1201**

**013. REQUIREMENTS FOR LABORATORY ALCOHOL ANALYSIS.**

**01. Laboratory.** Any laboratory desiring to perform urine alcohol or blood alcohol analysis shall meet the following standards: (3-19-99)

**a.** The laboratory shall prepare and maintain a written procedure governing its method of analysis, including guidelines for quality control and proficiency testing; (7-1-93)

**b.** The laboratory shall provide adequate facilities and space for the procedure used; (7-1-93)

**c.** Specimens shall be maintained in a secure storage area prior to analysis; (7-1-93)

**d.** All equipment, reagents and glassware necessary for the performance of the chosen procedure shall be on hand or readily available on the laboratory premises; (7-1-93)

**e.** The laboratory shall participate in approved proficiency testing and pass this proficiency testing according to standards set by the department. Failure to pass a proficiency test shall result in disapproval until the problem is corrected and a proficiency test is successfully completed; (7-1-93)

**f.** For a laboratory performing blood or urine alcohol analysis, approval shall be awarded to the laboratory director or primary analyst responsible for that laboratory. The responsibility for the correct performance of tests in that laboratory rests with that person; however, the duty of performing such tests may be delegated to any person designated by such director or primary analyst; (3-19-99)

**g.** Urine samples shall be collected in clean, dry containers. (7-1-93)

**02. Blood Collection.** Blood collection shall be accomplished according to the following requirements: (7-1-93)

**a.** Blood samples shall be collected using sterile, dry syringes and hypodermic needles, or other equipment of equivalent sterility; (7-1-93)

**b.** The skin at the area of puncture shall be cleansed thoroughly and disinfected with an aqueous solution of a nonvolatile antiseptic. Alcohol or phenolic solutions shall not be used as

a skin antiseptic; (7-1-93)

c. Blood specimens shall contain **at least** ten (10) milligrams of sodium fluoride per cubic centimeter of blood plus an appropriate anticoagulant. ~~(7-1-93)~~( )

**03. Results.** The results of analysis on blood for alcohol concentration shall be reported in units of grams of alcohol per one hundred (100) cubic centimeters of whole blood. (3-19-99)

**04. Reported.** The results of analysis on urine for alcohol concentration shall be reported in units of grams of alcohol per sixty-seven (67) milliliters of urine. Results of alcohol analysis of urine specimens shall be accompanied by a warning statement about the questionable value of urine alcohol results. (3-19-99)

**05. Records.** All records regarding proficiency tests, quality control and results shall be retained for three (3) years. (7-1-93)

# IDAPA 11 - IDAHO STATE POLICE

## 11.05.01 - RULES GOVERNING ALCOHOL BEVERAGE CONTROL

DOCKET NO. 11-0501-1101

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 23-901, 23-932, 23-1330, and 23-1408, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the November 7, 2012 Idaho Administrative Bulletin, [Vol. 12-11, pages 31 through 34](#).

**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:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Lt. Bob Clements 208-884-7062 or [Robert.clements@isp.idaho.gov](mailto:Robert.clements@isp.idaho.gov).

DATED this 4th day of December, 2012.

Colonel G. Jerry Russell  
Idaho State Police  
700 S. Stratford Dr.  
Meridian, ID 83642  
Phone: (208) 884-7003  
Facsimile: (208) 884-7090

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 23-901, 23-932, 23-1330, and 23-1408, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than 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 proposed rule provides a definition of “Multipurpose Arena” currently listed in Section 23-943, Idaho Code, clarifies existing rules providing additional information for licensees to ensure compliance with regulations and allow more consistent enforcement of alcohol beverage laws. This rule provides specific circumstances when minors are permitted or prohibited, considering modern business concepts and the specific types of establishments. This rule also protects public safety by restricting minors from primarily drinking establishments, regulating “over/under” clubs.

**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 representatives of the affected parties 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 Lt. Bob Clements 208-884-7062 or [Robert.clements@isp.idaho.gov](mailto:Robert.clements@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 26th day of October, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0501-1101

**010. DEFINITIONS.**

**01. Licensee.** Any person who has received a license from the Director under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. (7-1-93)

**02. Licensed Premises.** Any premises for which a license has been issued under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. All areas included on the floor plan submitted to the Director with the licensee's application for a license constitute the licensed premises. In the event of loss or move of the physical licensed premises, the licensee has ninety (90) days to secure and occupy a new premises in which to display the license. All licenses must be prominently displayed in a suitable premises and remain in actual use by the licensee and available for legitimate sales of alcoholic beverages by the drink. An additional sixty (60) days may be granted by the Director, upon petition by the license holder. (3-6-07)

**03. New Licenses.** For purposes of Section 23-908(4), Idaho Code, a "new license" is one that has become available as an additional license within a city's limits under the quota system after July 1, 1980. The requirement of Section 23-908(4), Idaho Code, that a new license be placed into actual use by the licensee and remain in use for at least six (6) consecutive months is satisfied if the licensee makes actual sales of liquor by the drink during at least eight (8) hours per day, no fewer than six (6) days per week. (3-6-07)

**04. Multipurpose Arena.** ( )

**a. For purposes of Section 23-944(3), Idaho Code, a Multipurpose Arena is a:** ( )

**i. Publicly or privately owned or operated arena, coliseum, stadium, or other facility where sporting events, concerts, live entertainment, community events, and other functions are presented for a ticketed price of admission or one whose premises are leased for private events such as receptions;** ( )

**ii. Facility that is licensed to sell liquor by the drink at retail for consumption upon the premises; and** ( )

**iii. Facility that has been endorsed by the director.** ( )

**b. A Multipurpose Arena facility must apply annually for an endorsement on its alcohol beverage license.** ( )

**c. To receive a Multipurpose Arena endorsement under this Section will require the**



facility to have food available including, but not limited to, hamburgers, sandwiches, salads, or other snack food. The director may also restrict the type of events at a Multipurpose Arena facility at which beer, wine, and liquor by the drink may be served. The director will also consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a Multipurpose Arena facility before the director will endorse the license.

( )

**d.** A licensee that applies for a Multipurpose Arena endorsement must submit with the application an operating/security plan to the director and the local law enforcement agency for review and approval. Once approved, the plan remains in effect until the licensee requests a change or the director determines that a change is necessary due to demonstrated problems or conditions not previously considered or adequately addressed in the original plan. The plan must be submitted in a format designated by the director and must contain all of the following elements:

( )

i. How the Multipurpose Arena facility will prevent the sale and service of alcohol to persons under twenty-one (21) years of age and those who appear to be intoxicated;

( )

ii. The ratio of alcohol service staff and security staff to the size of the audiences at events where alcohol is being served;

( )

iii. Training provided to staff who serve, regulate, or supervise the service of alcohol;

( )

iv. The facility's policy on the number of alcoholic beverages that will be served to an individual patron during one (1) transaction;

( )

v. A list of event type/categories to be held in the facility at which alcohol service is planned, along with a request for the level of alcohol service at each event; and

( )

vi. Diagrams and designation of alcohol service areas for each type of event category with identified restrictions of minors.

( )

**e.** Prior to the first of each month, the licensee must provide a schedule of events for the upcoming month to the director and local law enforcement office. This schedule must show the date and time of each event during which alcohol service is planned. The licensee must notify the director and local law enforcement at least twenty-four (24) hours in advance of any events where alcohol service is planned that were not included in the monthly schedule.

( )

**f.** To prevent persons who are under twenty-one (21) years of age or who appear intoxicated from gaining access to alcohol, the director may require that an operating plan include additional mandatory requirements if it is determined that the plan does not effectively prevent violations of liquor laws and regulations, particularly those that prevent persons under twenty-one (21) years of age or who are apparently intoxicated from obtaining alcohol.

( )

**g.** If premises, licensed as a Multipurpose Arena, subsequently ceases to meet the qualifications of a Multipurpose Arena, the restrictions contained in Section 23-943, Idaho Code, shall apply and the posting of signs as provided for in Section 23-945, Idaho Code, shall be

required. The licensee shall advise the director, by mail, that his premises no longer constitute a Multipurpose Arena, so that the license may be modified accordingly. ( )

**045. Partition.** A partition, as used in Section 23-944 Idaho Code, is defined as a structure separating the place from the remainder of the premises. Access through the structure to the place will be controlled to prevent minors from entering the place. The structure must be: (3-6-07)

- a.** Permanently fixed from the premises ceiling to the premises floor. (3-6-07)
- b.** Made or constructed of solid material such as glass, wood, metal or a combination of those products. (3-6-07)
- c.** Designed to prevent an alcoholic beverage from being passed over, under or through the structure. (3-6-07)
- d.** All partitions must be approved by the Director. (3-6-07)

**056. Place.** For the purposes of Section 23-943, Idaho Code, "Place" as defined by Section 23-942(b), for a one (1) room restaurant without a barrier or partition, refers to the immediate bar area wherein there is seating alongside a counter or barrier that encloses bar supplies and equipment that are kept, and where alcoholic beverages are mixed, poured, drawn or served for consumption. (3-6-07)

**067. Restaurant.** The term Restaurant, as defined by Section 23-942(c), Idaho Code, is further defined as an establishment maintained, advertised and held out to the public as primarily a food eating establishment, where individually priced meals are prepared and regularly served to the public, primarily for on-premises consumption. The establishment must also have a dining room or rooms, kitchen and cooking facilities for the preparation of food, and the number, and type of employees normally used in the preparing, cooking and serving of meals. Primarily as defined for the purposes of Section 010, also includes that the licensee must show to the director the following: (3-6-07)

- a.** An established menu identifying the individually priced meals for consumption; (3-20-04)
- b.** Food service and preparation occurs on the premises by establishment employees; (3-20-04)
- c.** Stoves, ovens, refrigeration equipment or such other equipment usually and normally found in restaurants are located on the premises of the establishment; (3-20-04)
- d.** The licensee must demonstrate to the satisfaction of the Director, through appropriate business records, that the establishment is advertised and held out to the public as primarily a food eating establishment, or that at least forty percent (40%) of the establishments consumable purchases are derived from purchases of food and non- alcoholic beverages. (3-20-04)

**078. Stock Transfer.** For the purposes of Section 23-908, Idaho Code, the sale or exchange of stock in a closely held corporation holding a license is deemed a transfer of the license. However, the sale or exchange of shares in a family corporation among family members, is not a transfer. (3-6-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**021. AGE RESTRICTION REQUIREMENTS.**

**01. Over/Under Clubs.** Minors shall not enter, remain or loiter in any licensed establishment that sells alcoholic beverages by the drink, ~~except for those premises listed in Section 23-944, Idaho Code.~~ or where drinking alcohol is the predominant activity, or where an environment is created in which drinking alcohol appears to be the predominant activity. This includes an establishment that provides entertainment and whose primary source of revenue comes from the sale of alcoholic beverages for consumption on the premises, or cover charges, or both. (3-6-07)( )

**02. Posting of Age Restriction Signs.** Sections 23-945 and 23-1026, Idaho Code, require every alcoholic beverage licensee to post an age restriction sign. Such sign must contain the following words in lettering of at least one (1) inch in height: "Admittance of persons under twenty-one (21) years of age prohibited by law." Such sign must be placed conspicuously over or on the door of each entrance to the licensed premises and must be clearly visible from the exterior approached to such premises. (3-6-07)

**03. Counterfeit or Altered Age Documents.** If alcoholic beverage licensees, their employees, or agents receive age identification documents which have been lost or voluntarily surrendered, they shall deliver the documents to an agent or investigator of the Alcohol Beverage Control Bureau or to other law enforcement officials within fifteen (15) days from the date they were received, found or voluntarily surrenders. When identification documents that appear to be mutilated, altered or fraudulent are presented to a licensee, their employees or agents, they must contact law enforcement and/or refuse service. (3-6-07)

# IDAPA 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1101-1201

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 1, 2012 Idaho Administrative Bulletin, **Vol. 12-8, pages 50 through 56.**

**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:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact William L. Flink at (208) 884-7251.

DATED this 27th day of August, 2012.

William L. Flink, Division Administrator  
Idaho State Police/Peace Officer Standards & Training  
700 S. Stratford Dr.  
Meridian, ID 83642  
Phone: (208) 884-7251  
Fax: (208) 884-7295

**THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2012**.

**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 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 August 15, 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 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:

Identifies the specific conduct that may constitute cause for decertification; requires an officer charged with a felony or misdemeanor to notify his agency head within five business days; requires an agency head to notify POST within fourteen days of learning of the charge; allows an agency head intending to hire a decertified officer to petition the Council, ten years after the date the officer was decertified, for reconsideration for law enforcement officer employment; and defines and streamlines the POST Council's decertification procedures so the Council and officers under investigation can have allegations of unethical behavior or misconduct resolved more quickly while also protecting the officers' due process rights.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that adoption of this temporary rule is appropriate for the following reasons: It is needed to protect the public health, safety, or welfare.

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

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties 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 temporary and proposed rule, contact William L. Flink at (208) 884-7251.

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 August 22, 2012.

DATED this 21st day of June, 2012.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1101-1201**

**032. POST COUNCIL.**

**01. Compensation.** Except for the Division Administrator of the POST Council, the members of the Council receive no compensation from POST for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their functions, as prescribed by law. (4-7-11)

**02. Council Resignations.** Any Council member who ceases to qualify as such shall at once notify the Governor and Chairman in writing. Any Council member who desires to terminate their services shall notify the Governor and Chairman in writing of their intentions. (4-2-08)

**03. Contested Cases.** Rules of Procedure in contested cases shall be governed by the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, or Section 092, of this rule, as applicable. (4-2-08)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**063. CODE OF ETHICS/STANDARDS OF CONDUCT.**

Each applicant shall attest that he has read, understands, and will abide by the POST Council's Code of Ethics as standards of professional conduct and that he has read and understands the conduct that may constitute cause for decertification as found in the POST Council's Code of Ethics and Subsections 091.03 and 091.04. (3-21-12)( )

**01. Fundamental Duty.** As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice. (3-21-12)

**02. Personal and Official Life.** I will keep my private life unsullied as an example to

all and will behave in a manner that does not bring discredit to me or my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret, unless revelation is necessary in the performance of my duty. (3-21-12)

**03. Appropriately Enforce the Law.** I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and the relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities. (3-21-12)

**04. Public Trust.** I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of law enforcement service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other law enforcement officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice. (3-21-12)

**05. Professional Performance.** I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement. (3-21-12)

**(BREAK IN CONTINUITY OF SECTIONS)**

**091. INTRODUCTION.**

**01. Certificates and Awards.** Certificates and awards may be presented by the Council for the purpose of recognizing or raising the level of competence of law enforcement and to foster cooperation among the Council, agencies, groups, organizations, jurisdictions, and individuals. Any applicant who is the subject of an investigation is not eligible for POST certification of any kind while under investigation by an agency with competent authority and jurisdiction. (3-20-97)( )

**02. Property.** Certificates and awards remain the property of the Council and are only valid as long as the officer has not been decertified and is appointed as an Idaho peace, county detention, juvenile detention, juvenile probation, correction, adult probation and parole, or misdemeanor probation officer, or an Idaho Department of Juvenile Corrections Direct Care Staff member. (3-29-10)

**03. Decertification – Mandatory, Discretionary, Reporting, Eligibility.** (3-30-07)( )

a. The Council shall decertify any officer who is convicted, as defined in Section 19-5109, Idaho Code, of any felony or offense which would be a felony if committed in this state. ( )

b. The Council may decertify any officer who is convicted, as defined in Section 19-5109, Idaho Code, of any misdemeanor; willfully or otherwise falsifies or omits any **material** information to obtain any certified status; or **violates for** any of the ~~standards of conduct as established by the council's code of conduct or code of ethics, as adopted and amended by the council~~ **causes set forth in Subsection 091.04.** ( )

c. Any officer charged with a felony, ~~a non-traffic misdemeanor,~~ or a misdemeanor ~~that would be a felony if committed in this state, must~~ **shall** notify ~~the POST Division Administrator~~ **his agency head** within ~~fourteen~~ **five (145)** business days. ~~Failure to notify constitutes a violation of the Law Enforcement Code of Ethics and the Law Enforcement Code of Conduct.~~ (3-29-10)( )

d. **The agency head of an officer charged with a felony or misdemeanor shall notify the POST Division Administrator within fourteen (14) days of learning of the charge.** ( )

~~be.~~ Any officer decertified by the Council ~~is~~ **shall** not ~~be~~ eligible for POST certification of any kind ~~in the future for ten (10) years following the date of decertification.~~ **An agency head intending to hire an officer who has been decertified shall request a waiver from the POST Council. No decertified officer shall exercise any law enforcement authority until recertified by the POST Council.** Any officer who is the subject of a POST decertification investigation ~~is~~ **shall** not ~~be~~ eligible for POST certification of any kind while under investigation. (3-29-10)( )

04. ~~Law Enforcement~~ **POST Council's Code of Conduct Ethics, Additional Cause for Decertification.** ~~As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality, and justice. I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. In furtherance of these duties, I hereby adopt and accept~~ **In addition to decertifying officers for violating the POST Council's Code of Ethics, the Council may also decertify any officer who engages in any of the following code of conduct which shall be considered a violation of the POST Council's Code of Ethics and standards of professional conduct:** (7-1-99)( )

a. ~~I shall conduct myself at all times in a manner that does not damage or have the likely result of damaging or bringing the public image, integrity, or reputation of my department or myself into discredit or disrepute~~ **Engages in criminal conduct whether charged or not.** (7-1-99)( )

b. ~~I shall not possess or~~ **Consumes** alcoholic beverages on duty ~~or while in uniform on duty or off duty,~~ except as ~~expressly required~~ **necessary** for the lawful performance of my duties. ~~Nor shall I unlawfully possess, sell, consume, use or assist in the use of any illegal or unauthorized drugs or medications on duty or off duty.~~ (7-1-99)( )



~~c. I shall not engage in any~~ **Illegal or unlawful harassment or intimidation of another;**  
~~nor shall I permit personal prejudices, political beliefs, animosities, or friendships to influence~~  
~~my decisions.~~ (7-1-99)(    )

~~d. I shall not lie, give misleading information,~~ **Lying** or ~~falsify~~ **falsifying official**  
~~written or verbal communications in official reports or in my actions with another person or~~  
~~organization when it is reasonable to expect that such information may be relied upon because of~~  
~~my position or affiliation with my department.~~ (3-30-07)(    )

~~e. I shall willfully observe and obey the lawful verbal and written rules, duties,~~  
~~policies, procedures, and practices of my department. I shall also subordinate my personal~~  
~~preferences and work priorities to the lawful verbal and written rules, duties, policies, procedures~~  
~~and practices of my department, as well as to the lawful orders and directives of supervisors and~~  
~~superior command personnel of my department. I shall willfully perform all lawful duties and~~  
~~tasks assigned by supervisory and/or superior ranked personnel. Direct, tacit, or constructive~~  
~~refusal to do so is insubordination~~ **Engages in inappropriate sexual conduct while on duty.**  
(7-1-99)(    )

~~f. I shall obey the constitutional, criminal and civil laws of the city, county, state, and~~  
~~federal government. I will never e~~ **Engages in an inappropriate relationship, sexual or otherwise,**  
**with a person who the officer knows or should have known is a victim, witness, defendant, or**  
**informant in an ongoing investigation or adjudication.** (    )

~~g. a~~ **Acts of corruption or bribery,** ~~nor will I condone such acts by other police~~  
~~officers.~~ (7-1-99)(    )

~~h. Unauthorized use or unlawful conversion of the property, equipment, or funds of~~  
~~his agency.~~ (    )

~~i. Intentional and unauthorized disclosure of confidential information or information~~  
~~that may compromise an official investigation.~~ (    )

~~j. Failure to report being charged with a felony or misdemeanor within five (5)~~  
~~business days.~~ (    )

~~k. Refusal to respond or failure to respond truthfully to questions asked in relation to~~  
~~an investigation or legal proceeding.~~ (    )

~~05. Law Enforcement Code of Ethics.~~ (3-30-07)

~~a. As a law enforcement officer, my fundamental duty is to serve the community; to~~  
~~safeguard lives and property; to protect the innocent against deception, the weak against~~  
~~oppression or intimidation, and the peaceful against violence or disorder; and to respect the~~  
~~Constitutional rights of all to liberty, equality and justice.~~ (3-30-07)

~~b. I will keep my private life unsullied as an example to all and will behave in a~~  
~~manner that does not bring discredit to me or to my agency. I will maintain courageous calm in~~

~~the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.~~ (3-30-07)

~~**e.** I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.~~ (3-30-07)

~~**d.** I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.~~ (3-30-07)

~~**e.** I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement.~~ (3-30-07)

**092. DUE PROCESS PROCEDURES.**

**01. Legal Authority.** In accordance with the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01.050, the POST Council declines to adopt in whole or in part the procedures established in IDAPA 04.11.01 for the resolution of contested cases. The procedures provided within Section 092, Due Process Procedures, are designed and promulgated to specifically meet the unique needs and requirements of the law enforcement profession for expeditious decision-making and handling of petitions for review in order to assure public safety and to secure a just, speedy and economical determination of all contested matters presented to the POST Council. These due process procedures have been designed to meet or exceed minimum Constitutional requirements for due process for the officers involved in contested matters, while providing the Peace Officer Standards and Training Council procedures for fulfillment of its obligations to protect the safety of the public and the integrity of the law enforcement profession. ( )

**02. Overview.** The POST Division Administrator shall oversee and conduct investigations into all trustworthy allegations or information received pertaining to officer conduct which could be a cause for decertification as set forth in these rules. Based upon the results of the investigation in each case, the Division Administrator shall make a determination whether decertification proceedings shall be commenced. The due process procedures set forth in these rules shall apply to all decertification proceedings once they are commenced. ( )

**03. Investigations.** ( )

**a.** The officer may be interviewed during the investigation. The officer shall receive

an administrative warning requiring the officer to respond to questions, to answer such questions truthfully, and to acknowledge his understanding that no statements provided shall be used against him in criminal proceedings, as based on Garrity v. New Jersey 385 U.S. 493 (1967). ( )

**b.** Refusal to respond or failure to respond truthfully to questions asked in relation to an investigation under Section 092 shall be cause for decertification. ( )

**04. Due Process Procedures - Summary Decertification.** If the POST Division Administrator determines that the allegations of conduct by the officer constitute cause for decertification and create a situation involving an immediate danger to the public health, safety, or welfare, he shall issue an order of decertification, including a brief, reasoned statement to justify both that the immediate danger exists and the decision to summarily decertify. ( )

**a.** The order shall include findings of fact and conclusions of law and shall be effective when issued. ( )

**b.** The officer and his agency head shall be provided written notice of the order and a copy of the record. ( )

**i.** The notice of the order shall advise the officer of his right to respond to the order and present the POST Division Administrator, in writing or in person, with any reasons why the action should not have been taken. The order shall specify a deadline for such response. ( )

**ii.** The notice shall inform the officer of his right to be represented by a person of the officer's own choosing during the opportunity to respond. ( )

**iii.** The notice shall establish a date for an emergency hearing on the matter within seven (7) days of the date of the order. ( )

**c.** The decision of the POST Division Administrator shall become final if the officer fails to appear at the emergency hearing, or respond within the time allowed, or if a response has been waived in writing by the officer, whichever occurs first. ( )

**d.** If the officer appears at the emergency hearing or responds in writing, the POST Division Administrator shall review and consider his response, and shall, within seven (7) days of the emergency hearing or receiving written response, make a decision and give notice of the decision to the officer. ( )

**e.** The decision of the POST Division Administrator is a final decision that is subject to review pursuant to Subsection 092.06. ( )

**f.** The agency record need not constitute the exclusive basis for POST action in a summary proceeding or for judicial review thereof. ( )

**05. Due Process Procedures - Non-Summary Decertification.** If the POST Division Administrator determines that the allegations of conduct by the officer do not create a situation involving an immediate danger to the public health, safety, or welfare, the officer shall be provided notice and an opportunity to respond before a decision is made to decertify. ( )

**a.** The POST Division Administrator shall provide the officer with a notice of the intent to decertify, which shall state the basis or reason for the contemplated decertification and an explanation of the evidence supporting the intended action. ( )

**b.** The officer shall be given the opportunity to respond to the notice and present the POST Division Administrator, in writing or in person, any reasons why the intended action should not be taken. The notice shall inform the officer of his right to be represented by a person of the officer's own choosing during the opportunity to respond. The deadline for the opportunity to respond shall not occur sooner than fourteen (14) days after the notice is given. After the officer has responded, or after the period to respond has expired or has been waived in writing by the officer, whichever occurs first, the POST Division Administrator shall, within twenty-eight (28) days, make a decision on the decertification of the officer and give notice of the decision and the reasons therefore to the officer. ( )

**06. Final Decision.** The decision or action of the POST Division Administrator shall be final and conclusive unless the officer files with the POST Council a request for a hearing on the decision within fourteen (14) days after the date of the POST Division Administrator's decision. The request for hearing shall include a brief statement of the questions or issues to be addressed during the requested hearing. ( )

**07. Due Process Procedure - Hearing.** Upon receipt of a request for hearing, the POST Council shall assign the matter to a hearing board or officer for hearing. If after the hearing, the hearing board or officer determines that proper cause for decertification did not in fact exist under Subsections 091.03 or 091.04 of these rules, or that proper procedures were not followed in reaching the decision, the hearing board or officer shall order the reinstatement of the officer's certification, or may remand the case to the POST Division Administrator for further proceedings. ( )

**a.** Process and procedure for the hearing before the hearing board or officer shall be as summary and simple as reasonably may be. ( )

**i.** The hearing board or officer appointed by the POST Council shall have the power to subpoena witnesses, administer oaths, and examine such of the records of the parties as relate to the questions in dispute. ( )

**ii.** The officer shall have the right to be represented at the hearing by a person of the officer's own choosing. ( )

**iii.** The officer shall have the right to discovery under IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 520 through 532. ( )

**iv.** Prior to submitting testimonial evidence, the officer shall receive an administrative warning requiring the officer to respond to questions, to answer such questions or provide testimony truthfully, and to acknowledge his understanding that no statements provided shall be used against him in criminal proceedings, as based on Garrity v. New Jersey 385 U.S. 493 (1967). ( )

v. Refusal to respond or failure to respond truthfully to questions asked in relation to a hearing under this section shall be cause for decertification. ( )

vi. A verbatim record of the proceedings at hearing before the hearing board or officer shall be recorded at the POST Council's expense. The verbatim record shall be the official record of the proceedings. ( )

vii. Any party to the action may, at its expense, request that a transcript of the proceedings be prepared or that additional recordings be made of the proceedings. Such a request shall be approved if the making of the additional recording does not cause distraction or disruption of the hearing. ( )

viii. The hearing board or officer to whom the matter has been assigned shall make such inquiry and investigations as shall be deemed necessary. ( )

ix. The hearings shall be held at the principle office of the Idaho Peace Officer Standards and Training in Ada County or in such place as the hearing board or officer may designate. ( )

x. The district court, in and for the county of Ada, shall have the power to enforce by proper proceedings the attendance and testimony of witnesses and production and examination of books, papers, and records. ( )

**b.** The decision of the hearing board or officer, consisting of such findings of fact, conclusions of law, and orders as are necessary, together with the record of the proceedings, shall be filed with the POST Council. A copy of the hearing board or officer's decision shall be immediately sent to the parties by United States mail. The decision of the hearing board or officer shall be final and conclusive between the parties, unless a petition for review by the full POST Council is filed with the Council within twenty-eight (28) days. The petition for review shall include a brief statement of the reasons that a hearing is requested. Where the decision and order of the hearing board or officer directed the reinstatement of the officer's certification, the certification shall be reinstated by the POST Division Administrator upon the expiration of the time for filing a petition for review. ( )

**08. Due Process Procedure - Review by POST Council.** If a petition for review is filed, the POST Council shall review the record of the proceedings before the hearing board or officer, briefs submitted in accordance with any briefing schedule it orders, and any transcripts submitted of the hearing. The Council may grant the parties the opportunity to present oral argument, but need not do so. The officer may be represented by a person of the officer's own choosing during the review process. The Council may affirm, reverse, or modify the decision of the hearing board or officer, or may remand the matter. A decision of the POST Council shall be final and conclusive between the parties. The POST Council's decision may be appealed to district court by filing a notice of appeal within twenty-eight (28) days of the filing of the decision. ( )

**09. Notice.** All notices to be given under Section 092, of these rules, shall be made either by personal service, facsimile or by U.S. mail, with postage prepaid, addressed to a party's last known address, as shown in the records and files of the POST Council. Service by mail shall

be made by certified mail - return receipt requested. An affidavit of personal service shall be filed by the person making the same. ( )

**09~~23~~. -- 095. (RESERVED)**

## IDAPA 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1101-1202

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 190 through 196](#).

**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:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 25th day of October, 2012.

William L. Flink, Division Administrator  
Idaho State Police/Peace Officer Standards & Training  
700 S. Stratford Dr.  
Meridian, ID 83642  
Phone: (208) 884-7251  
Fax: (208) 884-7295

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 17, 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:

Adds emergency services dispatchers to the definition of “law enforcement profession” as used in two-year agreements authorized pursuant to Section 19-5112, Idaho Code. Establishes that an applicant who is the subject of an investigation by an agency with competent authority and jurisdiction is not eligible for POST certification of any kind while under investigation. Allows the POST Division Administrator to extend over one year the validity of an applicant’s medical examination under extraordinary conditions and for good cause shown.

**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 representatives of the affected parties 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 Trish Christy at (208) 884-7253.

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 24, 2012.



DATED this 14th day of August, 2012.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1101-1202**

**010. DEFINITIONS.**

- 01. Act.** Title 19, Chapter 51, of the Idaho Code. (4-5-00)
- 02. Adult Probation and Parole Officer.** Any employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole. (3-30-07)
- 03. Agency.** A law enforcement agency which is a part of or administered by the state or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; a juvenile detention center; a juvenile probation department; the Idaho Department of Correction; or a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. (4-2-08)
- 04. Agency Head.** A chief of police of a city, sheriff of a county, or chief administrator of any law enforcement agency of the state of Idaho or any political subdivision thereof who is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; the chief administrator of a juvenile detention center; the chief administrator of a juvenile probation department; the director of the Idaho Department of Correction; or the chief administrator of a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the facility. (4-2-08)
- 05. Applicant.** Any person applying to participate in a POST training program or applying for POST certification. (4-2-08)
- 06. Basic Adult Probation and Parole Academy.** A basic course of instruction for Adult Probation and Parole Officers as recognized by POST Council. (4-2-08)
- 07. Basic Correction Academy.** A basic course of instruction for Correction Officers as recognized by POST Council. (4-2-08)
- 08. Basic Detention Academy.** A basic course of instruction for Detention Officers as recognized by POST Council. (4-2-08)
- 09. Basic Juvenile Detention Academy.** A basic course of instruction for Juvenile Detention Officers as recognized by POST Council. (4-2-08)
- 10. Basic Juvenile Probation Academy.** A basic course of instruction for Juvenile

Probation Officers as recognized by POST Council. (4-2-08)

**11. Basic Patrol Academy.** A basic course of instruction for Patrol Officers as recognized by POST Council. (4-2-08)

**12. College Credit.** A unit of work towards a baccalaureate or vocational degree accepted by a college or university of higher education accredited by the Northwest Association of Schools and Colleges or other equivalent accrediting agency. (7-1-93)

**13. Correction Officer.** Any employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility. (3-30-07)

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

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

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

**17. Crime of Deceit.** Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18-1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18-2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18-2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18-2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18-2601 et seq. (Falsifying Evidence -- Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds -- Drawing Check With Insufficient Funds -- Prima Facie Evidence of Intent -- Standing of Person Having Acquired Rights -- Probation Conditions), 18-3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating

Written Instruments), Section 18-3601 et seq. (Forgery), Sections 18-4616 (Defacing Marks on Logs or Lumber), 18-4617 (Stealing Rides on Trains), 18-4621 (Stealing Electric Current -- Tampering with Meters), 18-4622 (Stealing Electric Current -- Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Willful Concealment of Goods, Wares or Merchandise -- Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18-4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment -- Penalty -- Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49-231 (Farm Implements -- Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate -- Stolen Cars -- Destroying or Altering Engine or Decal Number -- Use of Fictitious Name -- Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction. (4-2-08)

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

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

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

**21. High School.** A school accredited as a high school by the Department of Education of the state in which the high school is located, or a school accredited as a high school by the recognized regional accreditation body, or a school accredited as a high school by the State University of the state in which the school is located. (7-1-93)

**22. In-Service Training.** Training designed to refresh or add to an individual's capabilities to do the task to which they are or may be assigned. (7-1-93)

**23. Juvenile Detention Center.** A juvenile detention facility that is part of or administered by the county or any political subdivision thereof and is responsible for the safety, care, protection, and monitoring of juvenile offenders. (4-2-08)

**24. Juvenile Detention Officer.** Any employee of a juvenile detention center who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center. (4-2-08)

**25. Juvenile Probation Officer.** Any employee of a juvenile probation department

who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. (4-2-08)

**26. Juvenile Training Council.** An advisory group to the POST Council that is composed of the Director of the Department of Juvenile Corrections, a Magistrate, a county Juvenile Detention Director, a county Chief Probation Officer, a county Commissioner, a county Clerk, and a county Sheriff. The purpose of the Juvenile Training Council is to advise POST Council in the planning, development, and operation of the Juvenile Detention and Juvenile Probation Academies. (4-2-08)

**27. Law Enforcement Profession.** As used in agreements authorized pursuant to Section 19-5112, Idaho Code, means an employee of a police or law enforcement agency that is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; an employee in a county jail who is responsible for the safety, care, protection, and monitoring of county jail inmates; an employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center; an employee of a county juvenile probation department who is responsible for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders; an employee of an Idaho Department of Correction facility or private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the correction facility; or an employee of the Idaho Department of Correction who is responsible for the supervision of offenders on probation or parole; or an employee working as an emergency services dispatcher. (4-2-08)( )

**28. Manual.** This book of Rules as adopted by the Idaho Peace Officer Standards and Training Council. (4-5-00)

**29. Part Time.** Employment of less than one hundred sixty (160) hours per month for ninety (90) consecutive calendar days. (4-2-08)

**30. Part-Time Juvenile Detention Officer.** Any employee of a juvenile detention center that is part of or administered by the county or any political subdivision thereof and who is responsible for the safety, care, protection, and monitoring of juvenile offenders held in the detention center, and does not meet the definition of "employee" as defined in Section 59-1302, Idaho Code. (4-2-08)

**31. Peace Officer.** Any employee of a police or law enforcement agency which is a part of or administered by the state or any political subdivision thereof and whose duties include and primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means an employee of a police or law enforcement agency of a federally recognized Indian tribe who has satisfactorily completed the peace officer standards and training academy and has been deputized by a sheriff of a county or a chief of police of a city of the state of Idaho. (4-5-00)

- 32. POST.** The Idaho Peace Officer Standards and Training Program. (7-1-93)
- 33. POST Basic Training Academy.** The Basic Adult Probation and Parole Academy, the Basic Correction Academy, the Basic Detention Academy, the Basic Juvenile Detention Academy, the Basic Juvenile Probation Academy, or the Basic Patrol Academy. (4-2-08)
- 34. Prosecutor.** A city prosecuting attorney, city assistant prosecuting attorney, county prosecuting attorney, county deputy prosecuting attorney, attorney general, deputy attorney general, United States attorney, or assistant United States attorney. (4-2-03)
- 35. Qualified Instructor.** Any person certified by the Idaho POST Council as being competent to teach in a Council-approved school. (4-2-08)
- 36. Reserve Peace Officer.** An individual assigned by an agency to perform the duties of a peace officer on a part-time basis. All reserve officers shall be under supervision as set forth in these rules unless they hold a current Part-Time Basic certificate. (4-2-08)
- 37. School.** Any school, college, university, academy, or local training program which offers law enforcement training and includes within its meaning the combination of course curriculum, instructors and facilities, or any training session as certified by POST. (7-1-93)
- 38. School Director or Coordinator.** An individual charged with the responsibility of conducting a training school under the provisions of the Act. (7-1-93)
- 39. Specification.** A description of a requirement supplementing a section of the Rules. (7-1-93)
- 40. Supervision.** Supervision allows the employing agency to utilize a Level I reserve officer to work by himself without the immediate presence or direction of a full-time peace officer, but acting under the overall on-duty supervision of an on-duty, full-time peace officer. This may allow a Level I reserve officer to work alone in his jurisdiction, without immediate oversight of an agency full-time peace officer, as long as there were another full-time peace officer of the agency working at the same time to provide supervision of the Level I reserve officer's activities. (3-29-12)
- 41. Temporary.** Employment of less than ninety (90) consecutive calendar days. (7-1-93)
- 42. Trainee.** An officer participating in any POST approved training program. (3-15-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

**059. PHYSICAL - MEDICAL.**

**01. Requirements.** (7-1-93)

**a.** Hearing. The applicant shall have unaided or aided hearing between zero (0) and twenty-five (25) decibels for each ear at the frequencies of five-hundred (500) Hz, one thousand (1000) Hz, two thousand (2000) Hz, and three thousand (3000) Hz. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of an audiologist or ear, nose, and throat physician that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

**b.** Vision. (7-1-93)

**i.** The applicant shall possess binocular coordination that does not manifest diplopia; depth of proficiency of a minimum of one (1) minute of arc at twenty (20) feet; peripheral vision shall be binocularly two hundred (200) degrees laterally with sixty (60) degrees upward and seventy (70) degrees downward. There shall be no pathology of the eye; applicant shall possess a minimum seventy percent (70%) proficiency on a color discrimination test. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

**ii.** The applicant shall have uncorrected vision in each eye of no weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but shall have the strong eye corrected to twenty/twenty (20/20) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination shall be administered by an optometrist or ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or weaker. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

**c.** Disease/Condition. The applicant shall be free from any impediments of the senses of sight, hearing, taste, smell, and touch; physically sound; well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer. Waiver of the above may be considered by the Council upon the applicant's demonstration that the deficiency does not jeopardize or impair his ability to perform the duties of a peace, detention,

juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. (4-7-11)

**d.** Agency Physical Readiness Test. To determine the applicant's physical capability, a physical readiness test based upon the job requirements of the appointing agency shall be administered by the appointing agency to each applicant. (4-7-11)

**02. Procedures.** (7-1-93)

**a.** A POST Council-approved medical history form shall be supplied by each applicant to the examining physician. The medical history shall include information on past and present diseases, injuries and operations. (4-7-11)

**b.** A medical examination shall be administered by a licensed physician or his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to perform the duties of a peace, detention, juvenile detention, juvenile probation, or adult misdemeanor probation officer, or a direct care staff member of the Idaho Department of Juvenile Corrections. The physician shall record his findings on the appropriate form and shall note thereon any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. A medical examination shall remain valid for one (1) year unless extended by the POST Division Administrator under extraordinary conditions and for good cause shown. (~~4-7-11~~)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**197. GENERAL PROVISIONS.**

**01. Certificates and Awards.** Certificates and awards may be presented by the Council for the purpose of recognizing or raising the level of competence of law enforcement and to foster cooperation among the Council, agencies, groups, organizations, jurisdictions, and individuals. Communications Specialist Certification is not statutorily mandated, but is voluntary. Any applicant who is the subject of an investigation by an agency with competent authority and jurisdiction is not eligible for POST certification of any kind while under investigation. (~~4-2-03~~)( )

**02. Property.** Certificates and awards remain the property of the Council and are only valid as long as the communications specialist is appointed as an Idaho communications specialist by a duly constituted Idaho law enforcement agency and has not been decertified. (3-29-10)

**03. Eligibility.** To be eligible for the award of a Level I, Level II, Level III, or Advanced certificate, each applicant shall be a full-time communications specialist appointed by a duly constituted Idaho law enforcement agency. (4-2-03)

**04. Applications.** All applications for award of the Level I, Level II, Level III, or

Advanced Certificates shall be completed by the applicant on the prescribed form “Application for Certification” as provided by the POST Council. (4-2-03)

**05. Submission.** The Application for Certification form shall be submitted by the applicant to his agency head who shall review it for accuracy prior to signing it and forwarding it to the Council. Certificates shall be issued to the agency head for award to the applicant. (4-2-03)

**06. Training.** Training not listed on the applicant's Idaho POST training record shall be supported by copies of certificates, course outlines, or other verifying documents attached to the application. (4-2-03)

**07. Minimum Standards.** Each applicant shall meet the minimum standards for employment as provided in Sections 050, 051, 052, 054, 055, 056, and 058. (3-29-12)



## IDAPA 11 - IDAHO STATE POLICE

### 11.11.02 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR JUVENILE DETENTION OFFICERS

DOCKET NO. 11-1102-1201

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 197 through 200](#).

**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:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 25th day of October, 2012.

William L. Flink, Division Administrator  
Idaho State Police/Peace Officer Standards & Training  
700 S. Stratford Dr.  
Meridian, ID 83642  
Phone: (208) 884-7251  
Fax: (208) 884-7295

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 17, 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:

Removes exception of physical disability in minimum employment standards, as that language is outdated and also conflicts with another provision in the rules. Changes term “must” to the more appropriate term “shall.” Removes outdated language in reference to height and weight requirements. Establishes the Intermediate certificate and the requirements for achieving it.

**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 representatives of the affected parties 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 Trish Christy at (208) 884-7253.

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 24, 2012.

DATED this 14th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1102-1201

**030. JUVENILE DETENTION OFFICER CERTIFICATION.**

**01. Decertification.** The council may decertify any juvenile detention officer in the same manner as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 091.03. (3-30-01)

**02. Certification.** The following dates govern voluntary and mandatory certification. (3-30-01)

**a.** From October 1, 2000 through September 30, 2002, any county Juvenile Detention Officer may receive voluntary certification from POST upon successful completion of the requirements outlined in Sections 031 or 032. (3-30-01)

**b.** If employed after October 1, 2002, any juvenile detention officer shall be certified by obtaining mandatory certification from the Peace Officer Standards and Training Council within one (1) year of the date the officer was first employed as a juvenile detention officer. (3-30-01)

**c.** Juvenile detention officers employed prior to October 1, 2002, shall comply with the training and certification provisions of Section 030 by September 30, 2004, however, the requirement for successful completion of the POST Basic Juvenile Detention Academy shall be waived if the officer scores a minimum of seventy-five percent (75%) on a challenge examination administered by POST and any other requirements for certification. The officer shall be allowed two (2) attempts to pass the examination. The attempts shall be no less than thirty (30) days apart and no more than six (6) months apart. If the officer fails both attempts or fails to retake the examination within six (6) months, the officer shall successfully complete the POST Basic Juvenile Detention Academy to be certified. (3-29-12)

**03. Applications.** All applications for award of the Juvenile Detention Officer Certificate shall be completed on the prescribed form "Application for Certification" as provided by the POST Council. (3-30-01)

**04. Submission.** The Application for Certification form shall be submitted by the officer/applicant to the applicant's department head, who shall forward the application to the Council. Certificates shall be issued to the department head for award to the applicant. (3-29-12)

**05. Minimum Standards.** (3-29-12)

**a.** Each applicant shall meet the minimum standards for employment and training as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," with the exception of fitness *and physical disability* which shall be left to the discretion of the

employing agency.

~~(3-29-12)~~( )

**b.** A POST-certified detention officer who does not change employers but simply takes on juvenile detention responsibilities, shall not be required to meet the hearing and vision standards again in order to qualify for juvenile detention certification. (3-29-12)

**(BREAK IN CONTINUITY OF SECTIONS)**

**033. PART-TIME JUVENILE DETENTION OFFICER CERTIFICATION.**

**01. Certification.** ~~The following dates govern mandatory certification:~~ (4-11-06)

~~a.~~ *If employed after October 1, 2006, any* **A** part-time juvenile detention officer ~~must~~ **shall** be certified by ~~obtaining mandatory certification from~~ the Idaho Peace Officer Standards and Training Council within one (1) year of the date the officer was first employed as a part-time juvenile detention officer. (4-11-06)( )

~~b.~~ *Part time juvenile detention officers employed prior to October 1, 2006, must comply with the training and certification provisions of Section 033 by September 30, 2007.* (4-11-06)

**02. Minimum Standards.** Each applicant ~~must~~ **shall** meet the minimum standards for employment and training as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," with the exception of ~~height, weight, fitness, and physical disability~~ which ~~will~~ **shall** be left to the discretion of the employing agency. (4-11-06)( )

**03. Eligibility.** To be eligible for the award of the part-time juvenile detention officer certificate, each applicant ~~must~~ **shall** meet the definition of part-time juvenile detention officer as defined in Subsection 010.07. (4-11-06)( )

**04. Supervision.** All certified part-time juvenile detention officers ~~must~~ **shall** be under the direct supervision of a certified full-time juvenile detention officer. This section is intended to limit the activity of a part-time juvenile detention officer. Each agency ~~must~~ **shall** draft its own individual agency policy in reference to the supervision of its certified part-time juvenile detention officers and that policy ~~must~~ **shall** be kept on file within each agency. (4-11-06)( )

**05. Limitation.** A part-time juvenile detention officer's certification ~~will~~ **shall** be effective only during those periods when he is formally assigned by the appointing agency to perform the duties of a certified part-time juvenile detention officer. (4-11-06)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**035. HIGHER CERTIFICATION.**

**01. General Provisions.** In addition to the requirements set forth above for the Basic Certificate, each applicant for the award of an Intermediate Certificate shall have completed the designated education and training, combined with the prescribed juvenile justice experience. ( )

**02. Education.** Education shall be supported by copies of transcripts, certificates, diplomas, or degrees attached to the application. ( )

**03. Training Not Listed.** Training not listed on the applicant’s Idaho POST training record shall be supported by copies of certificates, course outlines, or other verifying documents attached to the application. ( )

**04. Probationary Period.** The officer shall have completed the probationary period required by their agency when making application for Intermediate Certification. ( )

**036. INTERMEDIATE CERTIFICATE.**

**01. Requirements.** ( )

**02. Basic Certificate.** The applicant shall possess, or be eligible to possess, a Basic Certificate. ( )

**03. College Credits, Training Hours, and Experience.** The applicant shall have acquired the following combination of college credits and/or POST training hours, combined with the prescribed years of juvenile justice experience, or the college degree designated from an accredited college or university, combined with the prescribed years of juvenile justice experience, and have graduated from the POST Basic Juvenile Detention Academy:

<u>POST Training Hours Including POST Basic Juvenile Detention Academy</u>	<u>200 hours</u>	<u>400 hours</u>	<u>600 hours</u>	<u>800 hours</u>	<u>1,000 hours</u>	<u>POST Basic Juvenile Detention Academy</u>	
<u>One College Credit Equals Twenty (20) POST Training Hours</u>	<u>The above may be a combination of College Credits and POST Training Hours</u>					<u>Academic Associate Degree</u>	<u>Academic Baccalaureate Degree</u>
<u>Years of Juvenile Justice Experience</u>	<u>8</u>	<u>7</u>	<u>6</u>	<u>5</u>	<u>4</u>	<u>4</u>	<u>2</u>

( )

**037. (RESERVED)**

**0358. LAPSE OF JUVENILE DETENTION OFFICER CERTIFICATION.**

The certification of any juvenile detention officer shall be considered lapsed if the officer does not serve as a juvenile detention officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified juvenile detention officer who remains in a juvenile probation officer, Juvenile Corrections direct care staff, or misdemeanor probation officer duty assignment

with a law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof shall retain their POST certification provided they work at least sixty (60) hours per year in that capacity. The three-year period provided herein shall be tolled during any time period that a juvenile detention officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. (4-7-11)

**01. Three to Five Years.** A juvenile detention officer who has been out of full-time juvenile detention officer employment status from three (3) to five (5) years and who wants to reactivate certification shall meet the following POST requirements: (4-7-11)

**a.** Submit a POST Certification Juvenile Detention Challenge Packet; (4-7-11)

**b.** Pass the POST juvenile detention certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 030.02.c.; and (4-7-11)

**c.** Satisfactorily complete a probationary period as set forth in Subsection 031.01. (4-7-11)

**02. Over Five Years.** A juvenile detention officer who has been out of full-time juvenile detention officer employment status for over five (5) years shall attend the POST Basic Juvenile Detention Academy and comply with the requirements of Sections 030 and 031 of these rules to reactivate certification. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time juvenile detention officer employment, the officer was engaged in an occupation requiring juvenile justice training, skill, and experience. This evidence shall be submitted with a POST Certification Juvenile Detention Challenge Packet. Upon receiving a waiver, the officer shall meet the following POST requirements: (4-7-11)

**a.** Pass the POST juvenile detention certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 030.02.c.; and (4-7-11)

**b.** Satisfactorily complete a probationary period as set forth in Subsection 031.01. (4-7-11)

**03. Over Eight Years.** A juvenile detention officer who has been out of full-time juvenile detention officer employment status for over eight (8) years shall attend the POST Basic Juvenile Detention Academy and comply with the requirements of Sections 030 and 031 of these rules to reactivate certification. No waiver of this requirement shall be granted by the Council. (4-7-11)

**04. Exceptions.** (4-7-11)

**a.** The provisions of Subsections 038.01 through 038.03 shall not apply to officers holding a part-time Juvenile Detention certificate who work at least sixty (60) hours per year as a Juvenile Detention officer. (4-7-11)

**b.** The certification of a full-time Juvenile Detention officer transferring to part-time Juvenile Detention officer employment shall remain valid as long as the officer works at least sixty (60) hours per year as a Juvenile Detention officer. (4-7-11)

**0369. -- 999. (RESERVED)**

## IDAPA 11 - IDAHO STATE POLICE

### 11.11.03 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR JUVENILE PROBATION OFFICERS

DOCKET NO. 11-1103-1201

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 201 through 204](#).

**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:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 25th day of October, 2012.

William L. Flink, Division Administrator  
Idaho State Police/Peace Officer Standards & Training  
700 S. Stratford Dr.  
Meridian, ID 83642  
Phone: (208) 884-7251  
Fax: (208) 884-7295

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 17, 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:

Removes exception of physical disability in minimum employment standards, as that language is outdated and also conflicts with another provision in the rules. Establishes the Intermediate certificate and the requirements for achieving it.

**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 representatives of the affected parties 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 Trish Christy at (208) 884-7253.

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 24, 2012.

DATED this 14th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1103-1201

**030. JUVENILE PROBATION OFFICER CERTIFICATION.**

**01. Decertification.** The council may decertify any juvenile probation officer in the same manner as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," Subsection 091.03. (5-3-03)

**02. Certification.** (4-7-11)

**a.** Any full-time juvenile probation officer employed on or after October 1, 2003, shall be certified by the Peace Officer Standards and Training Council within one (1) year of their initial hire date as a full-time juvenile probation officer. (4-7-11)

**b.** Any full-time juvenile probation officer employed prior to October 1, 2003 shall be certified by the Peace Officer Standards and Training Council by September 30, 2005; however, the requirement for successful completion of the POST Basic Juvenile Probation Academy shall be waived if the officer scores a minimum of seventy-five percent (75%) on the POST juvenile probation certification examination. The officer shall be allowed two (2) attempts to pass the examination. The attempts shall be no less than thirty (30) days apart and no more than six (6) months apart. If the officer fails both attempts or fails to retake the examination within six (6) months, he shall successfully complete the POST Basic Juvenile Probation Academy to be certified. (4-7-11)

**c.** Any part-time juvenile probation officer employed on or after October 1, 2010 shall be certified by the Peace Officer Standards and Training Council within one (1) year of their initial hire date as a part-time juvenile probation officer. (4-7-11)

**d.** Any part-time juvenile probation officer employed prior to October 1, 2010 shall be certified by the Peace Officer Standards and Training Council by September 30, 2012; however, the requirement for successful completion of the POST Basic Juvenile Probation Academy shall be waived if the officer successfully completes the challenge procedure requirements prescribed in Section 032 of these rules. (4-7-11)

**03. Applications.** All applications for award of the Juvenile Probation Officer Certificate shall be completed on the prescribed form "Application for Certification" as provided by the POST Council. (5-3-03)

**04. Submission.** The Application for Certification form shall be submitted by the applicant to his agency head, who shall review it for accuracy prior to signing it and forwarding it to the Council. Certificates shall be issued to the agency head for award to the applicant. (4-7-11)

**05. Minimum Standards.** Each applicant shall meet the minimum standards for employment and basic training as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer

Standards and Training Council,” with the exception of fitness ~~and physical disability~~ which shall be left to the discretion of the employing agency. ~~(4-7-11)~~( )

**06. Retaining Certification.** A certified juvenile probation officer shall work sixty (60) hours annually in a juvenile probation officer capacity to retain certification. Documentation of hours worked shall be kept on file at the employing agency. Any juvenile probation officer working less than sixty (60) hours annually shall complete all requirements set forth in Section 0335 to be recertified. ~~(4-7-11)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**033. HIGHER CERTIFICATION.**

**01. General Provisions.** In addition to the requirements set forth above for the Basic Certificate, each applicant for the award of an Intermediate Certificate shall have completed the designated education and training, combined with the prescribed juvenile justice experience. ( )

**02. Education.** Education shall be supported by copies of transcripts, certificates, diplomas, or degrees attached to the application. ( )

**03. Training Not Listed.** Training not listed on the applicant’s Idaho POST training record shall be supported by copies of certificates, course outlines, or other verifying documents attached to the application. ( )

**04. Probationary Period.** The officer shall have completed the probationary period required by their agency when making application for Intermediate Certification. ( )

**034. INTERMEDIATE CERTIFICATE.**

**01. Requirements.** ( )

**02. Basic Certificate.** The applicant shall possess, or be eligible to possess, a Basic Certificate. ( )

**03. College Credits, Training Hours, and Experience.** The applicant shall have acquired the following combination of college credits and/or POST training hours, combined with the prescribed years of juvenile justice experience, or the college degree designated from an accredited college or university, combined with the prescribed years of juvenile justice experience, and have graduated from the POST Basic Juvenile Probation Academy:

<u>POST Training Hours Including POST Basic Juvenile Probation Academy</u>	<u>200 hours</u>	<u>400 hours</u>	<u>600 hours</u>	<u>800 hours</u>	<u>1,000 hours</u>	<u>POST Basic Juvenile Probation Academy</u>
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<u>One College Credit Equals Twenty (20) POST Training Hours</u>	<u>The above may be a combination of College Credits and POST Training Hours</u>					<u>Academic Associate Degree</u>	<u>Academic Baccalaureate Degree</u>
<u>Years of Juvenile Justice Experience</u>	<u>8</u>	<u>7</u>	<u>6</u>	<u>5</u>	<u>4</u>	<u>4</u>	<u>2</u>

( )

**035. (RESERVED)**

**0336. LAPSE OF JUVENILE PROBATION OFFICER CERTIFICATION.**

The certification of any juvenile probation officer shall be considered lapsed if the officer does not serve as a juvenile probation officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified juvenile probation officer who remains in a juvenile detention officer, Juvenile Corrections direct care staff, or misdemeanor probation officer duty assignment with a law enforcement agency that is a part of or administered by the state of Idaho or any political subdivision thereof shall retain their POST certification provided they work at least sixty (60) hours per year in that capacity. The three-year period provided herein shall be tolled during any time period that a juvenile probation officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. (4-7-11)

**01. Three to Five Years.** A juvenile probation officer who has been out of juvenile probation officer employment status from three (3) to five (5) years and who wants to reactivate certification shall meet the following POST requirements: (4-7-11)

**a.** Submit a POST Certification Juvenile Probation Challenge Packet; (4-7-11)

**b.** Pass the POST juvenile probation certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 030.02.b.; and (4-7-11)

**c.** Satisfactorily complete a probationary period as set forth in Subsection 031.01. (4-7-11)

**02. Over Five Years.** A juvenile probation officer who has been out of juvenile probation officer employment status for over five (5) years shall attend the POST Basic Juvenile Probation Academy and comply with the requirements of Sections 030 and 031 of these rules to reactivate certification. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of juvenile probation officer employment, the officer was engaged in an occupation requiring juvenile justice training, skill, and experience. This evidence shall be submitted with a POST Certification Juvenile Probation Challenge Packet. Upon receiving a waiver, the officer shall meet the following POST requirements: (4-7-11)

**a.** Pass the POST juvenile probation certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 030.02.b.; and (4-7-11)

- b. Satisfactorily complete a probationary period as set forth in Subsection 031.01.  
(4-7-11)

**03. Over Eight Years.** A juvenile probation officer who has been out of juvenile probation officer employment status for over eight (8) years shall attend the POST Basic Juvenile Probation Academy and comply with the requirements of Sections 030 and 031 of these rules to reactivate certification. No waiver of this requirement shall be granted by the Council. (4-7-11)

**0347. -- 999. (RESERVED)**

## IDAPA 11 - IDAHO STATE POLICE

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

DOCKET NO. 11-1104-1201

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 205 through 208](#).

**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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 25th day of October, 2012.

William L. Flink, Division Administrator  
Idaho State Police/Peace Officer Standards & Training  
700 S. Stratford Dr.  
Meridian, ID 83642  
Phone: (208) 884-7251  
Fax: (208) 884-7295

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 17, 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:

Allows the POST Division Administrator to extend over one year the validity of an applicant's medical examination under extraordinary conditions and for good cause shown. Changes the term "will" and "must" to the more appropriate term "shall." Allows an Idaho POST-certified correction officer or probation & parole officer who transfers to an administrative position with the Idaho Department of Correction to retain their POST certification provided they don't leave employment with IDOC and they attend twenty hours of training per year.

**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 representatives of the affected parties 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 Trish Christy at (208) 884-7253.

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 24, 2012.

DATED this 14th day of August, 2012.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1104-1201**

**039. PHYSICAL -- MEDICAL.**

**01. Requirements.** (4-11-06)

**a.** Hearing. The applicant shall have unaided or aided hearing between zero (0) and thirty (30) decibels for each ear at the frequencies of one thousand (1000) Hz and two thousand (2000) Hz; and unaided or aided hearing between zero (0) and fifty (50) decibels for each ear at the frequency of three thousand (3000) Hz. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of an audiologist or ear, nose, and throat physician that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a correction officer. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

**b.** Vision. The applicant shall have uncorrected vision in each eye of no weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/thirty (20/30) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but shall have the strong eye corrected to twenty/thirty (20/30) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination shall be administered by an optometrist or ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or weaker. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a correction officer. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

**c.** Disease/Condition. The applicant shall be free from any impediments of the senses of sight, hearing, taste, smell, and touch; physically sound; well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer. Waiver of Subsection 039.01.c. may be considered by the Council upon the applicant's demonstration that the deficiency does not jeopardize or impair his ability to perform the duties of a correction officer. (4-7-11)

**d.** Physical Readiness Test. The applicant shall pass the POST Physical Readiness Test for Correction Officers. (4-7-11)

**02. Procedures.** (4-11-06)

**a.** A POST Council-approved medical history form shall be supplied by each applicant to the examining physician. The medical history shall include information on past and



present diseases, injuries and operations. (4-7-11)

**b.** A medical examination shall be administered by a licensed physician or his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to perform the duties of a correction officer. The physician shall record his findings on the appropriate form or letter and shall note thereon, for evaluation by the appointing authority, any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. A medical examination shall remain valid for one (1) year unless extended by the POST Division Administrator under extraordinary conditions and for good cause shown.

~~(4-7-11)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**051. LAPSE OF CORRECTION OFFICER CERTIFICATION.**

The certification of any correction officer ~~will~~ shall be considered lapsed if the officer does not serve as a correction officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified correction officer who remains in an administrative duty assignment with the Idaho Department of Correction shall retain their POST certification provided they do not leave employment with the Idaho Department of Correction and satisfy the continuing training requirement of at least twenty (20) hours per year. The three-year period provided herein shall be tolled during any time period that a correction officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. ~~(3-29-10)~~( )

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

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

**02. Over Five Years.** A correction officer who has been out of full-time correction officer status for over five (5) years ~~must~~ shall attend the POST Basic Correction Academy or a

POST-certified private prison contractor's correction officer training program to reactivate certification. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time correction officer status, the officer was engaged in an occupation requiring correction officer training, skill, and experience. This evidence ~~must~~ shall be submitted with a POST Certification Correction Challenge Packet. Upon receiving a waiver, the officer ~~must~~ shall meet the following POST requirements: ~~(3-29-10)~~( )

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

**03. Over Eight Years.** A correction officer who has been out of full-time correction officer status for over eight (8) years ~~must~~ shall attend the POST Basic Correction Academy or a POST-certified private prison contractor's correction officer training program to be recertified. No waiver of this requirement ~~will~~ shall be granted by the Council. ~~(4-11-06)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**062. LAPSE OF ADULT PROBATION AND PAROLE OFFICER CERTIFICATION.**

The certification of any adult probation and parole officer ~~will~~ shall be considered lapsed if the officer does not serve as an adult probation and parole officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified adult probation and parole officer who remains in an administrative duty assignment with the Idaho Department of Correction shall retain their POST certification provided they do not leave employment with the Idaho Department of Correction and satisfy the continuing training requirement of at least twenty (20) hours per year. The three-year period provided herein shall be tolled during any time period that an adult probation and parole officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. ~~(3-29-10)~~( )

**01. Three to Five Years.** An adult probation and parole officer who has been out of full-time adult probation and parole officer status from three (3) to five (5) years and who wants to reactivate certification ~~must~~ shall meet the following POST requirements: ~~(3-29-10)~~( )

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

- b.** Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- c.** Pass the following tests administered by a POST Training Specialist: (4-11-06)
  - i.** The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; (4-2-08)
  - ii.** The POST Firearms Qualification Course; (4-2-08)
  - iii.** The POST Adult Probation and Parole Officer Physical Agility Test; and(4-11-06)
- d.** Satisfactorily complete a probationary period of not less than six (6) months. (4-11-06)

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

- a.** Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- b.** Attend and pass Idaho POST-certified courses in Arrest Techniques and Practical Problems; (4-11-06)
- c.** Pass the following tests administered by a POST Training Specialist: (4-11-06)
  - i.** The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; (4-2-08)
  - ii.** The POST Firearms Qualification Course; (4-2-08)
  - iii.** The POST Adult Probation and Parole Officer Physical Agility Test; and(4-11-06)
- d.** Satisfactorily complete a probationary period of not less than six (6) months. (4-11-06)

**03. Over Eight Years.** An adult probation and parole officer who has been out of full-time adult probation and parole officer status for over eight (8) years ~~must~~ shall attend the POST Basic Adult Probation and Parole Academy to be recertified. No waiver of this requirement ~~will~~ shall be granted by the Council. (~~4-11-06~~)(    )

## IDAPA 11 - IDAHO STATE POLICE

### 11.11.06 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR MISDEMEANOR PROBATION OFFICERS

DOCKET NO. 11-1106-1201

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Vol. 12-10, pages 209 and 210](#).

**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:  
N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Trish Christy at (208) 884-7253.

DATED this 25th day of October, 2012.

William L. Flink, Division Administrator  
Idaho State Police/Peace Officer Standards & Training  
700 S. Stratford Dr.  
Meridian, ID 83642  
Phone: (208) 884-7251  
Fax: (208) 884-7295

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 17, 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:

Removes exception of physical disability in minimum employment standards, as that language is outdated and also conflicts with another provision in the rules.

**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 representatives of the affected parties 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 Trish Christy at (208) 884-7253.

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 24, 2012.

DATED this 14th day of August, 2012.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1106-1201**

**030. MISDEMEANOR PROBATION OFFICER CERTIFICATION.**

**01. Decertification.** The POST Council may decertify any misdemeanor probation officer in the same manner as provided in IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council.” (4-7-11)

**02. Eligibility.** To be eligible for the award of the Basic Misdemeanor Probation Certificate, an applicant shall be a full-time misdemeanor probation officer employed by an Idaho misdemeanor probation department. To be eligible for the award of the Part-Time Basic Misdemeanor Probation Certificate, an applicant shall be a part-time misdemeanor probation officer employed by an Idaho misdemeanor probation department. (4-7-11)

**03. Certification.** (4-7-11)

**a.** Any full-time or part-time misdemeanor probation officer employed on or after January 10, 2011 shall be certified by the Peace Officer Standards and Training Council within one (1) year of their initial hire date as a full-time or part-time misdemeanor probation officer. (4-7-11)

**b.** Any full-time or part-time misdemeanor probation officer employed prior to January 10, 2011 shall be certified by the Peace Officer Standards and Training Council by January 9, 2014; however, the requirement for successful completion of the POST Basic Misdemeanor Probation Academy shall be waived if the officer has been continuously employed as a misdemeanor probation officer in Idaho since January 10, 2006 and successfully completes the following: (4-7-11)

i. Submits a POST Certification Misdemeanor Probation Challenge Packet to POST Council, which shall include copies of training records, transcripts, certificates, diplomas, or other documents that substantiate the officer’s training, education, and experience; (4-7-11)

ii. Passes the POST misdemeanor probation certification examination approved by the POST Council, administered by a POST Training Specialist, and conducted in the manner set forth in Subsection 031.03 of these rules; (4-7-11)

iii. Attends and passes the Idaho POST Misdemeanor Probation Academy’s “Legal and Liability Issues” and “Appropriate Use of Physical Force” training or POST-approved equivalent; and (4-7-11)

iv. Satisfactorily completes a probationary period as set forth in Subsection 031.01 of these rules. (4-7-11)

**04. Applications.** All applications for award of a Misdemeanor Probation Certificate shall be completed by the applicant on the prescribed form “Application for Certification” as provided by the POST Council. (4-7-11)

**05. Submission.** The Application for Certification form shall be submitted by the

applicant to his department head who shall review it for accuracy prior to signing it and forwarding it to the Council. Certificates shall be issued to the department head for award to the applicant. (4-7-11)

**06. Minimum Standards.** Each applicant shall meet the minimum standards for employment and basic training as provided in IDAPA 11.11.01, “Rules of the Idaho Peace Officer Standards and Training Council,” with the exception of fitness ~~and physical disability~~ which shall be left to the discretion of the employing department. ~~(4-7-11)~~( )

**07. Limitation of Part-Time Officers.** A part-time misdemeanor probation officer’s certification shall be effective only during those periods when he is formally assigned by the employing department to perform the duties of a part-time misdemeanor probation officer. (4-7-11)

**08. From Full-Time to Part-Time Status.** The certification of a full-time Misdemeanor Probation officer transferring to part-time Misdemeanor Probation officer employment shall remain valid as long as the officer works at least sixty (60) hours per year as a Misdemeanor Probation officer. (4-7-11)

**09. From Part-Time to Full-Time Status.** To be certified as a full-time misdemeanor probation officer, a currently certified part-time misdemeanor probation officer, upon appointment to full-time misdemeanor probation officer status, shall submit an Application for Certification as prescribed in Subsections 030.04 and 030.05 of this rule. (4-7-11)