



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Judiciary, Rules & Administration Committee

FROM: Senior Legislative Research Analyst - Ryan Bush

DATE: September 30, 2014

SUBJECT: Idaho State Police

IDAPA 11.03.01 - Rules Governing Alcohol Testing - Temporary and Proposed Rule (Docket No. 11-0301-1401)

IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule (Docket No. 11-1101-1403)

IDAPA 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers - Proposed Rule (Docket No. 11-1104-1401)

(1) IDAPA 11.03.01 - Rules Governing Alcohol Testing - Temporary and Proposed Rule (Docket No. 11-0301-1401)

ISP Forensic Services (ISPFS) submits notice of temporary and proposed rulemaking at IDAPA 11.03.01 - Rules Governing Alcohol Testing. ISPFS states that this rule adds current standard operating procedures published by ISPFS for alcohol analysis and breath testing to administrative rule. These rules were previously part of standard operating procedure documents published by ISPFS. Specifically, this rulemaking does the following:

- (1) Defines terms;
- (2) Provides requirements for laboratory alcohol analysis and breath alcohol instrument training;
- (3) Provides rules for instrument performance verification and calibration;
- (4) Outlines operational standards and approval standards for alcohol laboratories;
- (5) Provides the requirements for performing blood alcohol testing including, but not limited to, who shall administer a test, procedures prior to and during administration of a test, standards for correlation between breath samples and a provision for instrument failure; and
- (6) Details the methods for testing in minor in possession and minor in consumption cases.

ISPFSS states that a temporary rule is necessary due to ongoing criminal cases and appeals in the Idaho judicial system to suppress blood alcohol results based on having the rules in the standard operating procedure documents rather than administrative rule. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to ISP in Section 67-2901, Idaho Code.

(2) IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council - Proposed Rule (Docket No. 11-1101-1403)

The Idaho State Police submits notice of proposed rulemaking at IDAPA 11.11.01 - Rules of the Idaho Peace Officer Standards and Training Council (POST). This rulemaking does the following: 1) provides for home schooling and foreign education as acceptable education for an applicant; 2) provides for what documentation is required for proof of education; 3) leaves medical standards up to the employing agency; and 4) provides that applicants must be physically capable of passing all tasks and tests while attending a POST academy. ISP states that language was also added to reflect all of the different disciplines trained by POST.

ISP states that negotiated rulemaking was not conducted because the rule is simple in nature and affected parties were involved in the drafting of the rule. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to ISP in Section 19-5107, Idaho Code.

(3) IDAPA 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers - Proposed Rule (Docket No. 11-1104-1401)

The Idaho State Police submits notice of proposed rulemaking at IDAPA 11.11.04 - Rules of the Idaho Peace Officer Standards and Training Council for Correction Officers and Adult Probation and Parole Officers. This rulemaking removes all language regarding standards for employment for correction officers and adult probation and parole officers in the areas of education, physical/medical and mental so that the standards now incorporate those in the Minimum Standards for Employment listed in 11.11.01.

ISP states that negotiated rulemaking was not conducted because the rule is simple in nature and affected parties were involved in the drafting of the rule. There is no fiscal impact associated with this rulemaking.

The proposed rule appears to be within the statutory authority granted to ISP in Section 19-5107, Idaho Code.

cc: Idaho State Police - Idaho State Police - POST
Teresa Baker