

Table of Contents

31.61.01 - THE MOTOR CARRIER RULES

000. LEGAL AUTHORITY (Rule 0).	3
001. TITLE AND SCOPE (Rule 1).	3
002. WRITTEN INTERPRETATIONS. AGENCY GUIDELINES (Rule 2).	3
003. ADMINISTRATIVE APPEALS (Rule 3).	3
004. PUBLIC RECORD ACT COMPLIANCE (Rule 4).	3
005. DEFINITIONS (Rule 5).	3
006. CITATION (Rule 6).	4
007. FORMS (Rule 7).	4
008. NAME AND PERMIT NUMBER OF CARRIER. CORRESPONDENCE-- CHANGE OF ADDRESS (Rule 8).	4
009. FEES AND REMITTANCES. REFUNDS (Rule 9).	5
010. CODE OF FEDERAL REGULATIONS. FEDERAL REGISTER (Rule 10).	5
011. RELIEF FROM REGULATIONS (RULE 11).	5
012. MOTOR CARRIER SAFETY RATING (Rule 12).	5
013. -- 016. (RESERVED).	9
017. CONTROLLED SUBSTANCE TESTING (Rule 17).	9
018. TRANSPORTATION OF HAZARDOUS MATERIALS, SUBSTANCES AND WASTES (Rule 18).	10
019. CARRIER SAFETY REQUIREMENTS (Rule 19).	11
020. (RESERVED).	12
021. INSURANCE REQUIREMENTS (Rule 21).	12
022. CERTIFICATES OF INSURANCE (Rule 22).	14
023. VEHICLE AND CARRIER IDENTIFICATION (Rule 23).	14
024. LEASES OF EQUIPMENT (Rule 24).	14
025. INTERCHANGE OF EQUIPMENT (Rule 25).	20
026. TARIFFS (Rule 26).	20
027. CONTRACTS (Rule 27).	21
028. -- 030. (RESERVED).	22
031. COLLECTION ON DELIVERY (COD) (Rule 31).	22
032. SHIPPING RECEIPTS, BILLS OF LADING, FREIGHT BILLS, STATEMENTS, PASSENGER TICKETS, INSPECTIONS AND RETENTION OF RECORDS (Rule 32).	22
033. EQUIPMENT AND FACILITIES OF PASSENGER CARRIERS (Rule 33).	23
034. OBLIGATION TO CARRY PASSENGERS (Rule 34).	24
035. FREIGHT CARRIER PROHIBITED FROM CARRYING PASSENGERS (Rule 35).	24
036. CLAIMS (Rule 36).	24
037. SMOKING PROHIBITED IN CERTAIN PASSENGER VEHICLES (Rule 37).	24
038. PAYMENT OF RATES AND CHARGES/CREDIT ARRANGEMENTS (Rule 38).	24
039. -- 040. (RESERVED).	24
041. QUALIFICATIONS FOR COMMON AND CONTRACT CARRIER PERMITS/	

PERMANENT AUTHORITY (Rule 41). 24

042. QUALIFICATIONS FOR COMMON AND CONTRACT CARRIER PERMITS/
TEMPORARY AUTHORITY (Rule 42). 25

043. APPLICATIONS FOR PERMITS AND FOR TRANSFERS, AMENDMENTS,
SUSPENSIONS, REINSTATEMENTS, CANCELLATIONS, OR OTHER
CHANGES IN COMMON AND CONTRACT CARRIER PERMITS
(Rule 43). 26

044. ACTION ON APPLICATIONS (Rule 44). 28

045. PROCEDURES FOR CONSIDERING APPLICATIONS (Rule 45). 28

046. DESIGNATIONS IN COMMON AND CONTRACT CARRIER PERMITS AND
AUTHORITY (Rule 46). 29

047. RESTRICTIONS ON COMMON AND CONTRACT CARRIER PERMITS AND
AUTHORITY/MISCELLANEOUS PROVISIONS (Rule 47). 30

048. PRIVATE CARRIER PERMITS (Rule 48). 30

049. -- 050. (RESERVED). 30

051. INTERSTATE AND FOREIGN COMMERCE (Rule 51). 30

052. SYSTEM OF ACCOUNTS (Rule 52). 31

053. COMMON CARRIER COLLECTIVE RATEMAKING AGREEMENTS
(Rule 53). 31

054. OBEDIENCE AND COMPLIANCE WITH RULES AND REGULATIONS. FORCE
OF LAW (Rule 54). 31

055. BASE STATE REGISTRATIONS (Rule 55). 32

056. -- 999. (RESERVED). 32

31.61.01 - THE MOTOR CARRIER RULES

**Subchapter A. General Provisions
Rules 0 through 10**

000. LEGAL AUTHORITY (Rule 0).

These rules are promulgated pursuant to the authority of the Idaho Public Utilities Law, Chapters 1-7, Title 61, Idaho Code, and the Idaho Motor Carrier Act, Chapter 8, Title 61, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (Rule 1).

The title of these rules is the "Motor Carrier Rules." These rules apply to intrastate motor carriers under the jurisdiction of the Idaho Public Utilities Commission (Commission) and, when provided in the rule, to interstate or foreign carriers providing transportation of persons or property over highways of the state of Idaho by motor vehicle. These rules should be construed in connection with the Idaho Motor Carrier Act, the Idaho Public Utilities Law and other applicable state laws. These laws govern the interpretation of these rules. Procedural rules in these Motor Carrier Rules will be liberally interpreted to secure a just, speedy and economical determination of issues presented to the Commission. Unless prohibited by statute or rule of substantive law, the Commission may permit deviation from procedural rules in these Motor Carrier Rules when it finds compliance with them is impracticable, unnecessary or not in the public interest. (7-1-93)

002. WRITTEN INTERPRETATIONS. AGENCY GUIDELINES (Rule 2).

The Administrator of the Regulated Carrier Division is authorized to make and give informal interpretations of the terms and definitions found in the Motor Carrier Act, this Commission's rules applicable to motor carriers, permits issued by the Commission, tariffs on file with the Commission, and other filings relating to motor carriers maintained by the Commission pursuant to law. In addition, for rulemakings conducted before July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the order of proposed rulemaking and review of comments submitted in the order adopting these rules are maintained in the files of the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. The Commission Secretary may be contacted in writing at the Idaho Public Utilities Commission, Statehouse, Boise, Idaho 83720-6000, or may be reached by telephone at (208) 334-0300. For rulemakings conducted after July 1, 1993, written interpretations to these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking decision adopting these rules are published in the issues of the Idaho Administrative Bulletin proposing or adopting the rules. The Commission reserves to itself the authority to issue formal declaratory orders construing these items. (7-1-93)

003. ADMINISTRATIVE APPEALS (Rule 3).

All administrative appeals under the Motor Carrier Rules for motor carrier safety ratings under Rule 12 are conducted under the procedures of that rule. All other administrative procedures under these rules are conducted under the Commission's rules of procedure, IDAPA 31.01.01.000 et seq. (7-1-93)

004. PUBLIC RECORD ACT COMPLIANCE (Rule 4).

All materials in motor carrier files, except those that are investigatory records under section 9-340(22), Idaho Code, are public records available for inspection, examination and copying. Investigatory records are not public records, but may be examined or disclosed by the object of the investigation pursuant to section 9-335, Idaho Code. (7-1-93)

005. DEFINITIONS (Rule 5).

Whenever any term used in these rules is defined or referred to in the Motor Carrier Act, that term takes its statutory definition in these rules. In particular, the following terms are defined in sections 61-801 and 61-801A, Idaho Code: (7-1-93)

01. Commission. "Commission" means the Idaho Public Utilities Commission. (7-1-93)

02. Common Carrier. "Common carrier" means any person that holds itself out to the general public to engage in the transportation by motor vehicle in commerce in the state of Idaho of passengers or property or any class

or classes thereof for compensation, whether over regular or irregular routes, or by scheduled or unscheduled service. (7-1-93)

03. Contract Carrier. "Contract carrier" means any person that, under individual contracts or agreements, engages in the transportation, other than transportation referred to in Rule 005.02 (i.e., common carriage), by motor vehicle of passengers or property in commerce in the state of Idaho for compensation. (7-1-93)

04. Highway. "Highway" means the public roads, highways, streets, and ways of the State. (7-1-93)

05. Interstate Carrier. "Interstate carrier" means any person who or which owns or operates any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a foreign Nation, on either a general or limited basis, used or maintained for the transportation of persons or property or any class or classes thereof. (7-1-93)

06. Motor Carrier. "Motor carrier" means common carrier, contract carrier or private carrier (see Rule 017.02, 017.03, and 017.10). (7-1-93)

07. Motor Vehicle. "Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highway in the transportation of passengers and/or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails. (7-1-93)

08. Permit. "Permit" means a permit issued under this chapter to any motor carrier. (7-1-93)

09. Person. "Person" means any individual, firm, copartnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof. (7-1-93)

10. Private Carrier. "Private carrier" means any person not included in the terms "common carrier" or "contract carrier" (defined in Rules 005.02 and 005.03) who or which transports in commerce in the state of Idaho by motor vehicle property of which such person is the owner, lessee, or bailee, when such property is for the purpose of sale, lease, rent or bailment, or in the furtherance of any commercial enterprise; provided, that a motor vehicle of a private carrier, not in excess of eight thousand (8,000) pounds gross vehicle weight, not engaged in the transport of a hazardous substance, shall be exempt from the provisions of the Motor Carrier Act and the Motor Carrier Rules. (7-1-93)

11. Transportation. "Transportation" includes all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contact, express or implied, together with all services, facilities and property furnished, operated or controlled by any such carrier or carriers and used in the transportation of passengers and/or property in commerce in the state of Idaho. (7-1-93)

006. CITATION (Rule 6).

The official citation of these rules is IDAPA 31.61.01.000 et seq. For example, this rule is cited as IDAPA 31.61.01.006. In documents submitted to the Commission or issued by the Commission, these rules may be cited as MCR. For example, this rule is cited as MCR 6. (7-1-93)

007. FORMS (Rule 7).

The Administrator of the Regulated Carrier Division is authorized to produce and distribute forms and reports to carry out these rules. (7-1-93)

008. NAME AND PERMIT NUMBER OF CARRIER. CORRESPONDENCE--CHANGE OF ADDRESS (Rule 8).

01. Name and Permit Number of Carrier. Operations of a motor carrier must be conducted in the name in which the permit has been issued. The carrier must use that name on all reports, tariffs, time schedules, contracts, leases and all other official documents relating to its operations. A motor carrier must also use its permit name and number in all correspondence with the Commission. If the motor carrier does business under a name other than the name of its owner (sole proprietor, partnership or corporation), both that name and the assumed business name must appear on the permit, but the assumed business name alone may appear on advertising or other material distributed to

the general public. (7-1-93)

02. Service. Notices, Complaints, Orders and other official documents issued by the Commission may be served by mail to each motor carrier at the address currently shown on its permit or to its designated agent filed with this Commission. This service constitutes due and timely notice to the motor carrier. No further notice is necessary to bind the motor carrier to action taken pursuant to such notice. (7-1-93)

03. Correspondence. All correspondence with the Commission regarding a motor carrier should be addressed:

Commission Secretary
Idaho Public Utilities Commission
Statehouse
Boise, Idaho 83720-6000
ATTN: Regulated Carrier Division

(7-1-93)

04. Carrier's Change of Address. All carriers must immediately report any change in their principal business address to the Commission. Failure to keep the Commission apprised of the carrier's principal business address and failure to accept mail from the Commission at the most recently reported principal business address are violations of these rules subject to the sanctions of Idaho Code Section 61-808. (7-1-93)

009. FEES AND REMITTANCES. REFUNDS (Rule 9).

Fees and remittances to the Commission are payable to the Idaho Public Utilities Commission by money order, bank draft or check. Remittances in currency or coin are wholly at the risk of the remitter, and the Commission assumes no responsibility for their loss. The Commission upon its own initiative shall issue a refund for an overpayment of ten dollars (\$10) or more for one year from the time of overpayment. Upon a carrier's request, the Commission will issue a refund for an overpayment of less than ten dollars (\$10) within one (1) year of overpayment. The Commission will not issue refunds more than three (3) years after overpayment. Fees for reproduction and copies of Commission materials are found at IDAPA 31.61.01.004. (7-1-94)

010. CODE OF FEDERAL REGULATIONS. FEDERAL REGISTER (Rule 10).

The Code of Federal Regulations (CFR) is referred to in MCR 12, 17, 18, 19, 21, 24, 26, 36 and 51. Federal Regulations are adopted by reference in MCR 17, 18, 19, 21, 26, 36, and 51. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho Public Utilities Commission and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (7-1-93)

**Subchapter B - Safety
Rules 11 through 20**

011. RELIEF FROM REGULATIONS (RULE 11).

The Commission may issue a declaration of emergency relieving intrastate carriers from the requirements of 49 CFR Parts 390 through 399 adopted by reference in Rule 19 following the declaration of emergency. The maximum duration of the declaration of emergency, the particular rules in Parts 390 through 399 from which the carrier is relieved from complying, and all other aspects of relief from regulation shall be the same as provided in those Federal regulations. (4-26-95)

012. MOTOR CARRIER SAFETY RATING (Rule 12).

01. Scope and Purpose of Rule. This Rule establishes procedures to determine the safety fitness of motor carriers, to assign safety ratings, and to take remedial action when required. This Rule is modeled upon 49 CFR. Part 385. This Rule authorizes the Commission and the Idaho State Police (ISP) assigned to the Motor Carrier Safety Assistance Program (MCSAP) to determine safety ratings of motor carriers subject to the Commission's safety authority or to accept safety ratings made by federal authorities under 49 CFR. Part 385. In addition, upon the request of and in cooperation with the Federal Highway Administration (FHWA), the Commission and ISP are authorized to

conduct safety management audits pursuant to 49 CFR. Part 385. The purpose of this Rule is to determine the safety fitness of a motor carrier and to require the carrier to acquire or upgrade a rating to a satisfactory rating and then to maintain a satisfactory rating. This Rule applies to all intrastate motor carriers subject to the jurisdiction of the Idaho Public Utilities Commission as follows: (7-1-93)

a. All common and contract carriers operating a vehicle with a gross weight exceeding ten thousand (10,000 pounds) or carrying passengers are automatically subject to this rule, the standards of Rule 012.02 through 012.05 of this rule, and this rule's requirements for a safety rating. (7-1-94)

b. The Administrator of the Regulated Carrier Division may require all other common and contract passenger carriers to be subject to a safety rating under simplified reporting forms that the Administrator may prescribe. (7-1-93)

c. The Administrator of the Regulated Carrier Division may require any other common, contract, or private carrier to be subject to a safety rating when the Administrator finds it to be in the public interest to rate the carrier, based upon the carrier's proposed operations, operating history, or other factors bearing on the public safety. Safety management audits required by this Rule will be conducted at the time and date agreed to by the Commission, ISP, and the carrier, but no later than ten (10) days after the Commission's or ISP's initial request. (7-1-93)

02. Definitions. The following definitions, which are modeled upon the definitions in 49 CFR. 385.3, apply in this rule: (7-1-93)

a. "Applicable safety regulations or requirements" mean: (7-1-93)

i. Safety regulations and statutes of the state of Idaho; (7-1-93)

ii. Federal regulations adopted by reference in MCR 18. Transportation of Hazardous Materials, Substances and Wastes; and (7-1-93)

iii. Federal regulations adopted by reference in MCR 19. Motor Carrier Safety Requirements. (7-1-93)

b. "Compliance review" means an on-site investigation of motor carrier operations, such as drivers' hours of service, maintenance and inspection, drivers' qualifications, commercial drivers license requirements, financial responsibility, accidents, and other safety and business records to determine whether a motor carrier meets the safety fitness standards. A compliance review may be conducted to review a motor carrier's operation in response to a request to change a safety rating, to investigate a complaint, or to investigate the operations of unsatisfactory or conditionally rated motor carriers identified by a safety review, or as part of a routine periodic inspection of a carrier that has been rated as satisfactory. The compliance review may result in the initiation of an enforcement action. (7-1-93)

c. "Preventable accident on the part of a motor carrier" means an accident that: (7-1-93)

i. Involved a commercial motor vehicle operated by the carrier; and (7-1-93)

ii. Could have been averted but for an act, or failure to act, by the motor carrier or the driver. (7-1-93)

d. "Safety management controls" mean the systems, programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations, to ensure the safe movement of products and passengers through the transportation system, and to reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, or property damage. (7-1-93)

e. "Safety ratings" means one of the the four following ratings: (7-1-93)

i. "Satisfactory safety rating" means a rating based on a finding that the motor carrier has in place and functioning adequate safety management controls prescribed in Rule 012.02.d to meet the safety fitness standard. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier. (7-1-93)

ii. "Conditional safety rating" means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard, which could result in the inadequacies listed in Rule 012.03.a. through 012.03.k. of this rule. (7-1-93)

iii. "Unsatisfactory safety rating" means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard, which has resulted in inadequacies listed in Rule 012.03.a through 012.03.k of this rule. (7-1-93)

iv. "Unrated carrier" means that the motor carrier has not been assigned a safety rating by federal or state authorities. (7-1-93)

f. "Safety review" means an on-site assessment to determine if a motor carrier has adequate safety management controls in place and functioning to meet the safety fitness standard. The safety review includes a review of carrier records and operations. It is used to gather information for assigning ratings to unrated carriers and may also be used to change safety ratings. The safety review will not ordinarily result in the institution of an enforcement action, but may if circumstances warrant. (7-1-93)

03. Safety Fitness Standards. This paragraph is modeled on 49 CFR. 385.5. The satisfactory safety rating is based on the degree of compliance with the safety fitness standard for motor carriers. To meet the safety fitness standard, a motor carrier shall demonstrate that it has adequate safety management controls in place, which can function effectively to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with: (7-1-93)

- a. Commercial drivers license standard violations (49 CFR. Part 383); (7-1-93)
- b. Inadequate levels of financial responsibility (49 CFR. Part 387); (7-1-93)
- c. The use of unqualified drivers (49 CFR. Part 391); (7-1-93)
- d. Improper use or driving of motor vehicles (49 CFR. Part 392); (7-1-93)
- e. Unsafe vehicles operating on the highways (49 CFR. Part 393); (7-1-93)
- f. Nonreporting of accidents (49 CFR. Part 394); (7-1-93)
- g. The use of fatigued drivers (49 CFR. Part 395); (7-1-93)
- h. Inadequate inspection, repair, and maintenance of vehicles (49 CFR. Part 396); (7-1-93)
- i. Transportation of hazardous materials, driving and parking Rule violations (49 CFR. Part 397); (7-1-93)
- j. Violation of hazardous materials regulations (49 CFR. Parts 170-178 and 180); and (7-1-93)
- k. Motor vehicle accidents and hazardous materials incidents. (7-1-93)

04. Factors to be Considered in Determining the Safety Rating. This subsection is modeled on 49 CFR. 385.7. The factors to be considered in determining safety fitness and assigning a safety rating include information from safety reviews, compliance reviews and other relevant data. The factors may include all or some of the following: (7-1-93)

a. Adequacy of safety management controls (the adequacy of controls may be questioned if their degree of formalization, automation, etc., is found to be substantially below the norm for similar carriers. Violations, accidents, or incidents substantially above the norm for similar carriers will be strong evidence that management controls are either inadequate or are not functioning properly); (7-1-93)

- b. Frequency and severity of regulatory violations; (7-1-93)
 - c. Frequency and severity of driver/vehicle regulatory violations identified in roadside inspections; (7-1-93)
 - d. Number and frequency of out-of-service driver/vehicle violations; (7-1-93)
 - e. Increase or decrease in similar types of regulatory violations discovered during safety or compliance reviews; (7-1-93)
 - f. Frequency of accidents, hazardous materials incidents, reportable accident rate per million miles, reportable preventable accident rate per million miles; and other accident indicators, and whether these accident and incident indicators have improved or deteriorated over time; and (7-1-93)
 - g. The number and severity of violations of state safety rules, regulations, standards, and orders applicable to commercial motor vehicles and motor carrier safety that are compatible with federal rules, regulations, standards and orders. (7-1-93)
05. **Determination of a Safety Rating.** This subsection is modeled on 49 CFR. 385.9. Following a safety or compliance review of a motor carrier operation, the Safety Management Review Coordinator, using the factors prescribed in Rule 012.04 of this rule, shall determine whether the present operations of the motor carrier are consistent with the safety fitness standards set forth in Rule 012.03 of this rule, and assign a safety rating accordingly. (7-1-93)
06. **Notification of a Safety Rating.** This subsection is modeled on 49 CFR. 385.11. Following a safety or compliance review, the Safety Management Review Coordinator shall determine the safety fitness of a motor carrier and notify the motor carrier and the Commission in writing of the assigned safety rating. Notification of a "conditional" or "unsatisfactory" rating will include a list of those items for which immediate corrective actions must be taken. (7-1-93)
07. **Motor Carrier Certification.** This subsection is modeled on 49 CFR. 385.13. Upon notification of a conditional or unsatisfactory rating, a motor carrier shall certify to the Safety Management Review Coordinator, within thirty (30) days, whether all corrective actions identified by the safety review have been taken. Certification required by this subsection must be made to the Safety Management Review Coordinator. Failure to certify or falsely certifying under this Rule will be considered a reporting violation under section 61-807, Idaho Code. (7-1-93)
08. **Review of a Safety Rating.** This subsection is modeled on 49 CFR. 385.15. Safety ratings may be reviewed as follow: (7-1-93)
- a. A petition for review of a safety rating, where there are factual disputes, must list all factual issues disputed and be accompanied by any information or documents the motor carrier is relying upon as a basis for its petition for a change in its assigned safety rating. (7-1-93)
 - b. The petition must be submitted to the Administrator of the Regulated Carrier Division within twenty-eight (28) calendar days of the date of notification of the assignment, or change of a safety rating. (7-1-93)
 - c. Following the review of the petition, the Administrator of the Regulated Carrier Division may request the motor carrier to submit additional data and attend a conference to discuss the safety rating. Failure to provide information in response to any reasonable or lawful request, or failure to attend the conference, may result in dismissal of the petition. (7-1-93)
 - d. The Administrator of the Regulated Carrier Division shall notify the motor carrier in writing of the decision on a petition for review of the safety rating. (7-1-93)
09. **Request for a Change in a Safety Rating.** This subsection is modeled on 49 CFR. 385.17. A request for a change in a safety rating, where there are no disputes, and when the basis of a change is evidence of corrective action that has been taken and that operations are currently being conducted pursuant to the safety fitness standards

specified in Rule 012.03 of this rule, shall be directed in writing to the Administrator of the Regulated Carrier Division, Idaho Public Utilities Commission, P.O. Box 83720, Boise, Idaho 83720-0074. Appropriate Commission personnel will contact the motor carrier to schedule a compliance review. (7-1-94)

10. Safety Fitness Information. This subsection is modeled on 49 CFR. 385.17. Safety ratings will be made available to federal, state and local law enforcement and regulatory agencies telephonically or in writing. Safety ratings will be made available to the public upon request. Written requests should be made to the Administrator. Regulated Carrier Division, Idaho Public Utilities Commission, P.O. Box 83720, Boise, Idaho 83720-0074. Telephone requests may be answered orally. (7-1-94)

11. Safety Management Review Coordinator. The Safety Management Review Coordinator is designated by the Commission in cooperation with the Director of the Idaho Department of Law Enforcement. The name, telephone number and business address of the Safety Management Review Coordinator are available from the Regulated Carrier Division. (7-1-93)

013. -- 016. (RESERVED).

017. CONTROLLED SUBSTANCE TESTING (Rule 17).

01. Adoption of Federal Regulations. 49 CFR Part 391 Subpart H. Controlled Substance Testing (49 CFR 391.81 through 391.125), and 49 CFR Part 40. Procedures for Transportation Workplace Drug Testing Programs, are hereby adopted by reference. All interstate and foreign carriers and all intrastate common, contract and private carriers subject to the safety authority of the Idaho Public Utilities Commission operating vehicles described in Rule 017.02 of this Rule that transport passengers or property within Idaho must comply with 49 CFR Part 391, Subpart H. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, this Rule removes that exemption and subjects intrastate carriers to the same requirements. The Commission asserts its authority under this paragraph of this Rule to the maximum extent allowed by section 61-815, Idaho Code, Public Laws 89-679 and 89-170 (See 49 U.S.C. 502(c)(3)), 49 CFR Part 388, and the Commission's agreement with the Federal Highway Administration dated April 30, 1968. (4-26-95)

02. Operation of Vehicles Subject to This Rule. The requirements of this Rule apply to carriers described in Rule 017.01 of this rule for any driver operating any of the following vehicles (see 49 CFR 383.5 and 390.5): (7-1-93)

a. Vehicles with a gross combination weight rating of twenty-six thousand one (26,001) or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand (10,000) pounds; (7-1-93)

b. Vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) or more pounds; (7-1-93)

c. Passenger vehicles in interstate, foreign and intrastate commerce designed to transport sixteen (16) or more passengers including the driver; or (1-1-94)

d. Vehicles of any size used in the transportation of materials found to be hazardous for the purposes of the Hazardous Material Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, Subpart F). (7-1-93)

03. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate common, contract and private carriers operating within Idaho subject to this rule under Rule 017.01 and 017.02 must obtain copies of the federal regulations adopted by reference in Rule 017.01 of this rule and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Rule for any carrier subject to those regulations. (7-1-93)

04. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this MCR 17 are those contained in the compilation of 49 CFR Part 391, Subpart H (49 CFR 391.81 through 391.125) and 49 CFR Part 40 published in the Code of Federal Regulations volume dated October 1, 1993, and as subsequently

recompiled and all amendments to these rules appearing in the Federal Registers through November 23, 1994; in particular, the amendment to 49 CFR section 391.87-appearing in the issue of December 23, 1993, 58 Fed. Reg. 68222-68230; and the amendments to 49 CFR Parts 40, 391, 392, 395 and the addition of Part 382 appearing in the issue of February 15, 1994, 59 Fed. Reg. 7505-7515, 7354-7371. (4-26-95)

018. TRANSPORTATION OF HAZARDOUS MATERIALS, SUBSTANCES AND WASTES (Rule 18).

01. Adoption of Federal Regulations. 49 CFR Parts 171, 172, 173, 177, 178 and 180 are hereby adopted by reference. All interstate and foreign carriers and all intrastate common, contract and private carriers subject to the safety authority of the Idaho Public Utilities Commission while operating in Idaho that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, this Rule removes that exemption and subjects intrastate carriers to the same requirements. The Commission asserts its authority under this Rule to the maximum extent allowed by section 61-815, Idaho Code, Public Laws 89-670 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388, and the Commission's agreement with the Federal Highway Administration dated April 30, 1968. (7-1-93)

02. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate common, contract and private carriers subject to this Rule that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 171, 172, 173, 177, 178 and 180 must obtain copies of these federal regulations and make them available to their drivers and other personnel handling hazardous materials, substances or wastes and must familiarize their drivers and other personnel handling hazardous materials, substances or wastes with any regulation pertaining to the particular material, substance or waste that is transported. Failure to be familiar with these federal regulations adopted by reference is a violation of this Rule for any carrier transporting such cargoes. The federal regulations adopted by reference in this MCR 18 have the following subject matter: (7-1-93)

Subchapter C - Hazardous Materials Regulations

- a. Part 171. General Information, Regulations and Definitions. (7-1-93)
- b. Part 172. Hazardous Materials Tables and Hazardous Materials Communications Regulations. (7-1-93)
- c. Part 173. Shippers-General Requirements for Shipments and Packaging. (7-1-93)
- d. Parts 174-176. (Not adopted regulations for railroads, aircraft and vessels). (7-1-93)
- e. Part 177. Carriage by Public Highway. (7-1-93)
- f. Part 178. Shipping Container Specifications. (7-1-93)
- g. Part 179. (Not adopted regulations for rail tanker cars). (7-1-93)
- h. Part 180. Continuing Qualification and Maintenance of Packaging. (7-1-93)

03. Recognition of Federal Waivers. Whenever a carrier has applied to a federal agency and been granted a waiver of the packaging requirements of the federal regulations adopted in Rule 018.01, the federal waiver will also be recognized under these rules. The Commission will not administer a program to duplicate consideration or approval of federal waivers on the state level. (7-1-93)

04. Hazardous Materials. As used in this rule, "Hazardous Material" means a substance or material, including a hazardous substance, listed by the U.S. Department of Transportation in the "Hazardous Materials Table" (49 CFR 172.101), which has been determined to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce. Hazardous materials listed include (but are not limited to) radioactive materials, explosives, poisons, flammable liquids, flammable solids or flammable gases, combustible liquids,

compressed gases, blasting agents, oxidizers, corrosives, severely irritating materials or materials with combinations of these properties. (7-1-93)

05. Hazardous Substances. As used in this rule, "Hazardous Substance" means a material, its mixtures or solutions, that is listed in the Appendix to 49 CFR 172.101 and that is in a quantity in one (1) package that equals or exceeds the reportable quantity (RQ) listed in the Appendix to 49 CFR 172.101. (7-1-93)

06. Hazardous Waste. As used in this rule, "Hazardous Waste" means any material that is subject to the Hazardous Waste Manifest requirements of the U.S. Environmental Protection Agency. See 40 CFR Part 262. (7-1-93)

07. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this MCR 18 are those contained in the compilations of 40 CFR Part 262 published in the Code of Federal Regulations volume dated July 1, 1993, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1993, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers through November 23, 1994; in particular, the amendments to 49 CFR Section 173.33 appearing in the issue of January 12, 1994, 59 Fed. Reg. 1786; 49 CFR Parts 171, 172, 173, 178 and 179 appearing in the issue of June 2, 1994, 59 Fed. Reg. 28490-28494, and corrected in issue of 59 Fed. Reg. 35411 and 37537; 49 CFR Part 172 appearing in the issue of June 14, 1994, 59 Fed. Reg. 30530; 49 CFR Part 172 and Appendix A to section 172.101 appearing in the issue of June 20, 1994, Fed. Reg. 31823-31851; 49 CFR Parts 171, 172, 173, 178 and 180 appearing in the issue of July 26, 1994, 59 Fed. Reg. 38052-38080; 49 CFR Part 172 appearing in the issue of September 21, 1994, 59 Fed. Reg. 48549; 49 CFR Part 171 appearing in the issue of September 22, 1994, 59 Fed. Reg. 48763-48764; and the amendments to 49 CFR Parts 171, 172, 173, 177, 178, 179, and 180 appearing in the issue of September 26, 1994, 59 Fed. Reg. 49132-49135. (4-26-95)

019. CARRIER SAFETY REQUIREMENTS (Rule 19).

01. Adoption of Federal Regulations. 49 CFR. Parts 383, 388 and 390 through 399 (except Part 391, Subpart H) are hereby adopted by reference. All interstate and foreign carriers and all intrastate common, contract and private carriers subject to the safety authority of the Idaho Public Utilities Commission while operating in Idaho that transport passengers or property must comply with 49 CFR. Parts 383, 388 and 390 through 399, and the law and rules of the State of Idaho (except Part 391, Subpart H for all carriers and section 391.11(b)(1) for intrastate carriers) In particular, these rules apply to interstate passenger carriers, regardless of the size of vehicle operated. The subject matter of 49 CFR. Part 391, Subpart H (controlled substance testing) is addressed in Rule 17. The subject matter of 49 CFR. 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho Public Utilities Commission may hire drivers who are eighteen (18) years or older as set forth in section 49-303, Idaho Code. Whenever any one of these federal regulations (except section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this Rule removes that exemption and subjects the intrastate carrier to the same requirements. The Commission asserts its authority under this Rule to the maximum extent allowed by section 61-815, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR. Part 388, and the Commission's agreement with the Federal Highway Administration dated April 30, 1968. (7-1-93)

02. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate common, contract and private carriers subject to this Rule must obtain copies of the federal regulations adopted by reference in Rule 019.01 of this rule and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Rule for any carrier subject to those regulations. The federal regulations adopted by reference in this Rule address the following subject matter: (7-1-93)

- a. Part 383. Commercial Driver's License Standards; Requirements and Penalties; (7-1-93)
- b. Part 388. Cooperative Agreements with States; (7-1-93)
- c. Part 390. Federal Motor Carrier Safety Regulations: General; (7-1-93)

- d. Part 391. Qualifications of Drivers; (7-1-93)
- e. Part 392. Driving of Motor Vehicles; (7-1-93)
- f. Part 393. Parts and Accessories Necessary for Safe Operation; (7-1-93)
- g. Part 394. Notification and Reporting of Accidents; (7-1-93)
- h. Part 395. Hours of Service of Drivers; (7-1-93)
- i. Part 396. Inspection, Repair and Maintenance; (7-1-93)
- j. Part 397. Transportation of Hazardous Materials; Driving and Parking Rules; (7-1-93)
- k. Part 398. Transportation of Migrant Workers; (7-1-93)
- l. Part 399. Employee Safety and Health Standards. (7-1-93)

03. Recognition of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Rule 019.01, the federal waiver will also be recognized under these rules. The Commission will not administer a program to duplicate consideration or approval of federal waivers on the state level. (7-1-93)

04. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this MCR 19 are those contained in the compilation of 49 CFR. Parts 383, 388 and 390 through 399 published in the Code of Federal Regulations volumes dated October 1, 1993, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers through November 23, 1994; in, particular, the amendments to 49 CFR 390.5 and 391.43 appearing in the issue of November 8, 1993, 58 Fed. Reg. 59196; 49 CFR section 390.5 and 392.71 appearing in the issue of December 21, 1993, 58 Fed Reg. 67375; 49 CFR Part 393 appearing in the issue of May 17, 1994, 59 Fed Reg. 25572; and the amendments to 49 CFR Parts 392 and 393 appearing in the issue of July 6, 1994, 59 Fed Reg. 34711-34712 and 34718-34720 and corrected in 59 Fed. Reg. 43898. (4-26-95)

020. (RESERVED).

**Subchapter C -Operating Rules (Excluding Safety)
Rules 21 through 30**

021. INSURANCE REQUIREMENTS (Rule 21).

01. Insurance Required. No motor carrier subject to the jurisdiction of the Commission may transport property or passengers until the carrier has obtained and has in effect the minimum levels of insurance or a surety bond set forth in this rule. (7-1-93)

02. Passenger Carriers. The minimum levels of insurance or surety bond coverage (for injury, death, or property damage in any one accident) for common and contract passenger carriers are: (7-1-93)

a. For any vehicle with a seating capacity of twenty five (25) passengers or more -- five million dollars (\$5,000,000); (7-1-94)

b. For any vehicle with a seating capacity of twenty four (24) passengers or less -- one million, five hundred thousand dollars (\$1,500,000). (4-26-95)

03. Property Carriers Certain Risky or Perilous Cargoes. 49 CFR 171.8, 172.101 (and its Appendix), and 173.403 are hereby adopted by reference. The minimum levels of insurance or surety bond coverage (for injury, death, environmental restoration, or property damage in any one accident) for common and contract property carriers are: (7-1-93)

- a. Five million dollars (\$5,000,000) for carriers of: (7-1-93)
- i. Any quantity of Class A or B explosives; (7-1-93)
- ii. Any quantity of poison gas (poison A); (7-1-93)
- iii. Highway route controlled quantity of radioactive materials as defined in 49 CFR 173.403; (7-1-93)
- iv. Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of three thousand five hundred (3500) water gallons; or (7-1-93)
- v. Liquified compressed gas or compressed gas in bulk; (7-1-93)
- b. One million dollars (\$1,000,000) for carriers (1) of oil listed in 49 CFR 172.101; or (2) hazardous waste, hazardous materials or hazardous substances as defined in 49 CFR 171.8 and listed in 49 CFR 172.101 or its Appendix, but not mentioned in Rule 021.03.a. (7-1-93)
04. Other Property Carriers. The minimum level of insurance or surety bond coverage (for injury, death or property damage in any one accident) for common and contract carriers of all other property (including drive away and tow away units transported by the carrier) is seven hundred fifty thousand dollars (\$750,000). (7-1-93)
05. Cargo Insurance. The minimum level of insurance or surety bond coverage for cargo damage to be carried by common and contract carriers (including drive away and tow away units transported by the carrier) is the equivalent of the fair market value of the cargo, except that a shipper and a contract carrier may agree in writing that the carrier may maintain different amounts of cargo insurance or no cargo insurance at all. (7-1-93)
06. Private Carriers. Private carriers must maintain the insurance required by Title 49, Idaho Code, except private carriers transporting certain risky or perilous cargoes described in Rule 021.03 of this rule must carry insurance as required by that rule subsection. (7-1-93)
07. Definitions. 49 CFR 172.101 and 387.5 are hereby adopted by reference. Definitions of terms used in this rule: (7-1-93)
- a. "Environmental Restoration" means restoration for the loss, damage, or destruction of natural resources arising out of the discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water of any commodity transported by a motor carrier. This includes the cost of removal and cost of necessary measures taken to minimize or mitigate damages to human health, the natural environment and wildlife (including aquatic animals). See 49 CFR 387.5. (7-1-93)
- b. "Hazardous Material" means a substance or material that has been determined by the U.S. Department of Transportation to be capable of posing an unreasonable risk to health, safety and property when transported in commerce, and which has been so designated in the "Hazardous Materials Table." See 49 CFR 172.101. (7-1-93)
- c. "Injury" means harm to the body, sickness, or disease resulting from a motor carrier accident, including death from an injury. (7-1-93)
- d. "Property Damage" means damage to or loss of use of tangible property. (7-1-93)
08. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this MCR 21 are those contained in the compilation of 49 CFR 171.8, 172.101 (and its Appendix), 173.403 and 387.5 published in the Code of Federal Regulations volume dated October 1, 1993, and as subsequently recompiled and all amendments to these rules appearing in the Federal Registers through November 23, 1994; in particular, the amendments to 49 CFR Part 172 appearing in the issue of June 2, 1994, 59 Fed. Reg. 28491-28493, and corrected in the issue of 59 Fed. Reg. 35411 and 37537; 49 CFR Part 172 and Appendix A to section 172.101 appearing in the issue of June 20, 1994, 59 Fed. Reg. 31823-31851; 49 CFR Parts 171 and 172 appearing in the issue of July 26, 1994, 59 Fed. Reg. 38052-38064; and the amendments to 49 CFR Parts 171, and 172 appearing in the issue of September

26, 1994, 59 Fed. Reg. 49132-49133.

(4-26-95)

022. CERTIFICATES OF INSURANCE (Rule 22).

01. Filing. Common and contract carriers and interstate carriers who participate in the base state agreement by registering in Idaho as their base state must file with the Commission certificates that the insurance or bond described by the certificate of insurance and required by MCR 21 is in effect for the account of the motor carrier, except as provided in Rule 022.04. (7-1-93)

02. Forms. The certificate must be either a Form E or a Federal Form set forth in 49 CFR. 1043.7(a)(3) (either a Form BMC 91, Form BMC 91X, with BMC Form 90 endorsements as necessary, or Form BMC 91MX), Form E-1 (available from the Commission) or W.C. 3091 that is completed and signed by the insurance company's underwriting department or its authorized representative. Surety bonds must be completed on a form provided by the Commission. The Administrator of the Regulated Carrier Division may prescribe additional forms as necessary. (7-1-93)

03. Coverage. Policies of insurance and surety bonds required and filed with the Commission under this Rule or MCR 21 remain in effect as described on the certificate filed with the Commission until terminated according to Rule 022.05 of this rule. When certificates of insurance on file with the Commission show that insurance has lapsed, the Commission will suspend the carrier's permit effective upon five (5) days' notice. (7-1-93)

04. No Cargo Insurance Filing. Certificates of cargo coverage need not be filed, but upon request of the Commission or its employees the carrier must produce a duplicate of the insurance policy or surety bond. (7-1-93)

05. Notice of Termination or of Inadequate Insurance. Notice of termination of insurance or surety bond or of reduction in insurance below the requirements of MCR 21 must be filed with the Commission at least thirty (30) days before the change. (7-1-93)

023. VEHICLE AND CARRIER IDENTIFICATION (Rule 23).

01. Identification Number. Each common and contract carrier (except limousines or other similar passenger vehicles seating fewer than seven passengers) must display in a conspicuous place on both sides of each self-powered vehicle that it operates in Idaho in letters at least two (2) inches high: (7-1-93)

a. The name or trade name of the motor carrier under whose authority the vehicle is being operated; and (7-1-93)

b. Except for interstate carriers of passengers or property, the permit number assigned to the operating authority. The permit number must be in the following form: "IPUC". Drive-away vehicles must display a temporary identification. (7-1-93)

02. Removal of Number. This identification number must be removed whenever the vehicle is no longer operated under the common or contract permit. (7-1-93)

024. LEASES OF EQUIPMENT (Rule 24).

01. Scope and Purpose of the Rule. This Rule sets standards for leases of equipment by common, contract and private carriers. Rule 024.02 through 024.06 are modeled upon 49 CFR. Part 1057 and Rule 024.08. is modeled upon the Interstate Commerce Commission's private carrier lease policy (MC-122 Sub2). (7-1-93)

02. Definitions. The definitions in this subsection are modeled on those in 49 CFR. 1057.2. (7-1-93)

a. Authorized Carrier. "Authorized Carrier" means a person or persons authorized to engage in the transportation of property as a common or contract carrier under the provisions of the Idaho Motor Carrier Act. (7-1-93)

b. Addendum. "Addendum" means a supplement to an existing lease that is not effective until signed

by the lessor and lessee. (7-1-93)

c. Detention. "Detention" means the holding by a consignor or consignee of a trailer, with or without power unit and driver, beyond the free time allocated for the shipment under circumstances not attributable to the performance of the carrier. (7-1-93)

d. Equipment. "Equipment" means a motor vehicle, bus, straight truck, tractor, semitrailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in transportation for hire. (7-1-93)

e. Escrow Fund. "Escrow Fund" means money deposited by the lessor with either a third party or the lessee to guarantee performance, to repay advances, to cover repair expenses, to handle claims, to handle license and state permit costs, and for any other purposes mutually agreed upon by the lessor and lessee. (7-1-93)

f. Interchange. "Interchange" means the receipt of equipment by one (1) motor common carrier of property from another such carrier, at a point where both carriers are authorized to serve, with which to continue a through movement. (7-1-93)

g. Lease. "Lease" means a contract or arrangement in which the owner grants the use of equipment, with or without driver, for a specified period to an authorized carrier for use in regulated transportation, in exchange for compensation. (7-1-93)

h. Lessee. "Lessee" means the party acquiring the use of equipment, with or without driver, from another. (7-1-93)

i. Lessor. "Lessor" means the party granting the use of equipment, with or without driver, to another. (7-1-93)

j. Owner. "Owner" means a person (1) to whom title to equipment has been issued, (2) who, without title, has the right to exclusive use of equipment, or (3) who has lawful possession of equipment, registered and licensed in any state in the name of that person. (7-1-93)

k. Private Carrier. "Private Carrier" means a private carrier as defined by section 61-801, Idaho Code, paragraph h. (7-1-93)

l. Sublease. "Sublease" means a written contract in which the lessee grants the use of leased equipment, with or without driver, to another. (7-1-93)

m. Shipper. "Shipper" means a person who authorizes transportation in intrastate commerce. (7-1-93)

03. General Leasing Requirements. This subsection is modeled upon 49 CFR. 1057.11. Other than through the interchange of equipment as set forth in MCR 25 (Interchange of Vehicles), and under the exemptions set forth in Rule 024.05 and 024.06 of this rule, the authorized carrier may perform authorized transportation in equipment it does not own only under the following conditions: (7-1-93)

a. Lease. There shall be a written lease granting the use of the equipment and meeting the requirements contained in Rule 024.04 of this rule. (7-1-93)

b. Receipts for Equipment/Receipts, specifically identifying the equipment to be leased and stating the date and time of day possession is transferred, shall be given as follows: (7-1-93)

i. When possession of the equipment is taken by the authorized carrier, it shall give the owner of the equipment a receipt. The receipt identified in this section may be transmitted by mail, telegraph, or other similar means of communication. (7-1-93)

ii. When possession of the equipment by the authorized carrier ends, a receipt shall be given in accordance with the terms of the lease agreement if the lease agreement requires a receipt. (7-1-93)

iii. Authorized representatives of the carrier and the owner may take possession of leased equipment and give and receive the receipts required under c.ii of this rule. (7-1-93)

c. Identification of Equipment. The authorized carrier acquiring the use of equipment under this section shall identify the equipment as being in its service as follows: (7-1-93)

i. During the period of the lease, the carrier shall identify the equipment in accordance with the Commission's requirements in MCR 23 (Identification of Vehicles). (7-1-93)

ii. Unless a copy of the lease is carried on the equipment, the authorized carrier shall keep a statement with the equipment during the period of the lease certifying that the equipment is being operated by it. The statement shall also specify the name of the owner, the date and length of the lease, any restrictions in the lease relative to the commodities to be transported, and the address at which the original lease is kept by the authorized carrier. This statement shall be prepared by the authorized carrier or its authorized representative. (7-1-93)

d. Records of Equipment. The authorized carrier using equipment leased under this section shall keep records of the equipment as follows: The authorized carrier shall prepare and keep documents covering each trip for which the equipment is used in its service. These documents shall contain the name and address of the owner of the equipment, the point of origin, the time and date of departure, and the point of final destination. Also, the authorized carrier shall carry papers with the leased equipment during its operation containing this information and identifying the lading and clearly indicating that the transportation is under its responsibility. These papers shall be preserved by the authorized carrier as part of its transportation records. Leases that contain the information required by the provisions in this paragraph may be used and retained instead of such documents or papers. This provision is complied with by having a copy of a master lease in the unit of equipment in question if the balance of documentation called for by this subsection is included in the freight documents prepared for the specific movement. (7-1-93)

04. Written Lease Requirements. This Subsection is modeled on 49 CFR. 1057.12. Except as provided in the exemptions set forth in Rule 024.05 and 024.06 of this rule, the written lease required under Rule 024.03 of this rule shall contain the following provisions. The required lease provisions shall be adhered to and performed by the authorized carrier. (7-1-93)

a. Parties. The lease shall be made between the authorized carrier and the owner of the equipment. The lease shall be signed by these parties or by their authorized representatives. (7-1-93)

b. Duration to be Specific. The lease shall specify the time and date or the circumstances on which the lease begins and ends. These times or circumstances shall coincide with the times for the giving of receipts required by conditions of Rule 024.03.b. of this rule. (7-1-93)

c. Exclusive Possession and Responsibilities: (7-1-93)

i. The lease shall provide that the authorized carrier lessee shall have exclusive possession, control, and use of the equipment for the duration of the lease. The lease shall further provide that the authorized carrier lessee shall assume complete responsibility for the operation of the equipment for the duration of the lease. (7-1-93)

ii. Provision may be made in the lease for considering the authorized carrier lessee as the owner of the equipment for the purpose of subleasing it under these rules to other authorized carriers during the lease. (7-1-93)

d. Compensation to be Specified. The amount to be paid by the authorized carrier for equipment and driver's services shall be clearly stated on the face of the lease or in an addendum that is attached to the lease. The lease or addendum shall be delivered to the lessor prior to the commencement of any trip in the service of the authorized carrier. An authorized representative of the lessor may accept these documents. The amount to be paid may be expressed as a percentage of gross revenue, a flat rate per mile, a variable rate depending on the direction traveled or the type of commodity transported, or by any other method of compensation mutually agreed upon by the parties to the lease. The compensation stated on the lease or in the attached addendum may apply to equipment and driver's services either separately or as a combined amount. (7-1-93)

e. Items Specified in Lease. The lease shall clearly specify which party is responsible for removing identification devices from the equipment upon the termination of the lease and when and how these devices, other than those painted directly on the equipment, will be returned to the carrier. The lease shall clearly specify the manner in which a receipt will be given to the authorized carrier by the equipment owner when the latter retakes possession of the equipment upon termination of the lease agreement, if a receipt is required at all by the lease. The lease shall clearly specify the responsibility of each party with respect to the cost of fuel, fuel taxes, empty mileage, permits of all types, tolls, ferries, detention and accessorial services, base plates and licenses, and any unused portions of such items. The lease shall clearly specify who is responsible for loading and unloading the property onto and from the motor vehicle, and the compensation, if any, to be paid for this service. Except when the violation results from the acts or omissions of the lessor, the authorized carrier lessee shall assume the risks and costs of fines for overweight and oversize trailers when the trailers are pre-loaded, sealed or the load is containerized, or when the trailer or lading is otherwise outside of the lessor's control, and for improperly permitted overdimension and overweight loads and shall reimburse the lessor for any fines paid by the lessor. If the authorized carrier is authorized to receive a refund or a credit for base plates purchased by the lessor from and issued in the name of the authorized carrier, or if the base plates are authorized to be sold by the authorized carrier to another lessor, the authorized carrier shall refund to the initial lessor on whose behalf the base plate was first obtained a prorated share of the amount received. (7-1-93)

f. Payment Period. The lease shall specify that payment to the lessor shall be made within fifteen (15) days after submission of the necessary delivery documents and other paperwork concerning a trip in the service of the authorized carrier. The paperwork required before the lessor can receive payment is limited to the driver's record of duty status required by MCR 19 and those documents necessary for the authorized carrier to secure payment from the shipper. In addition, the lease may provide that, upon termination of the lease agreement, as a condition precedent to payment, the lessor shall remove all identification devices of the authorized carrier and, except in the case of identification painted directly on equipment, return them to the carrier. If the identification device has been lost or stolen, a letter certifying its removal will satisfy this requirement. Until this requirement is complied with, the carrier may withhold final payment. The authorized carrier may require the submission of additional documents by the lessor but not as a prerequisite to payment. Payment to the lessor shall not be made contingent upon submission of a bill of lading to which no exceptions have been taken. The authorized carrier shall not set time limits for the submission by the lessor of required delivery documents and other paperwork. (7-1-93)

g. Copies of Freight Bill or Other Form of Freight Documentation. When a lessor's revenue is based on a percentage of the gross revenue for a shipment, the lease must specify that the authorized carrier will give the lessor, before or at the time of settlement, a copy of the rated freight bill or a computer-generated document containing the same information, or, in the case of contract carriers, any other form of documentation actually used for a shipment containing the same information that would appear on a rated freight bill. When a computer-generated document is provided, the lease will permit lessor to view, during normal business hours, a copy of any actual document underlying the computer-generated document. Regardless of the method of compensation, the lease must permit lessor to examine copies of the carrier's tariff or, in the case of contract carriers, other documents from which rates and charges are computed, provided that where rates and charges are computed from a contract of a contract carrier, only those portions of the contract containing the same information that would appear on a rated freight bill need be disclosed. The authorized carrier may delete the names of shippers and consignees shown on the freight bill or other form of documentation. (7-1-93)

h. Charge-Back Items. The lease shall clearly specify all items that may be initially paid for by the authorized carrier, but ultimately deducted from the lessor's compensation at the time of payment or settlement, together with a recitation as to how the amount of each item is to be computed. The lessor shall be afforded copies of those documents that are necessary to determine the validity of the charge. (7-1-93)

i. Products, Equipment, or Services from Authorized Carrier. The lease shall specify that the lessor is not required to purchase or rent any products, equipment, or services from the authorized carrier as a condition of entering into the lease arrangement. The lease shall specify the terms of any agreement in which the lessor is a party to an equipment purchase or rental contract that gives the authorized carrier the right to make deductions from the lessor's compensation for purchase or rental payments. (7-1-93)

j. Insurance. (7-1-93)

i. The lease shall clearly specify the legal obligation of the authorized carrier to maintain insurance

coverage for the protection of the public pursuant to Commission regulations under MCR 21. The lease shall further specify who is responsible for providing any other insurance coverage for the operation of the leased equipment, such as bobtail insurance. If the authorized carrier will make a charge back to the lessor for any of this insurance, the lease shall specify the amount which will be charged-back to the lessor. (7-1-93)

ii. If the lessor purchases any insurance coverage for the operation of the leased equipment from or through the authorized carrier, the lease shall specify that the authorized carrier will provide the lessor with a copy of each policy upon the request of the lessor. Also, where the lessor purchases such insurance in this manner, the lease shall specify that the authorized carrier will provide the lessor with a certificate of insurance for each such policy. Each certificate of insurance shall include the name of the insurer, the policy number, the effective dates of the policy, the amounts and types of coverage, the cost to the lessor for each type of coverage, and the deductible amount for each type of coverage for which the lessor may be liable. (7-1-93)

iii. The lease shall clearly specify the conditions under which deductions for cargo or property damage may be made from the lessor's settlements. The lease shall further specify that the authorized carrier must provide the lessor with a written explanation and itemization of any deductions for cargo or property damage made from any compensation of money owed to the lessor. The written explanation and itemization must be delivered to the lessor before any deductions are made. (7-1-93)

k. Escrow Funds. If escrow funds are required, the lease shall specify: (7-1-93)

i. The amount of any escrow fund or performance bond required to be paid by the lessor to the authorized carrier or to a third party. (7-1-93)

ii. The specific items to which the escrow fund can be applied. (7-1-93)

iii. That while the escrow fund is under the control of the authorized carrier, the authorized carrier shall provide an accounting to the lessor of any transactions involving such fund. The carrier shall perform this accounting in one of the following ways: (1) By clearly indicating in individual settlement sheets the amount and description of any deduction or addition made to the escrow fund; or (2) By providing a separate accounting to the lessor of any transactions involving the escrow fund. This separate accounting shall be done on a monthly basis. (7-1-93)

iv. The right of the lessor to demand to have an accounting for transactions involving the escrow fund at any time. (7-1-93)

v. That while the escrow fund is under the control of the carrier, the carrier shall pay interest on the escrow fund on at least a quarterly basis. For purposes of calculating the balance of the escrow fund on which interest must be paid, the carrier may deduct a sum equal to the average advance made to the individual lessor during the period of time for which interest is paid. The interest rate shall be established on the date the interest period begins and shall be at least equal to the average yield or equivalent coupon issue yield on ninety-one (91) day, thirteen (13) week Treasury bills as established in the weekly auction by the Department of Treasury. (7-1-93)

vi. The conditions the lessor must fulfill in order to have the escrow fund returned. At the time of the return of the escrow fund, the authorized carrier may deduct monies for those obligations incurred by the lessor which have been previously specified in the lease, and shall provide a final accounting to the lessor of all such final deductions made to the escrow fund. The lease shall further specify that in no event shall the escrow fund be returned later than forty-five (45) days from the date of termination. (7-1-93)

l. Copies of the Lease. An original and two (2) copies of each lease shall be signed by the parties. The authorized carrier shall keep the original and shall place a copy of the lease on the equipment during the period of the lease unless a statement as provided for in requirement Rule 024.03.c.ii of this rule is carried on the equipment instead. The owner of the equipment shall keep the other copy of the lease. (7-1-93)

m. The requirement of Rule 024.04.l. of this rule applies to owners who are not agents, but whose equipment is used by an agent of an authorized carrier in providing transportation on behalf of that authorized carrier. In this situation, the authorized carrier is obligated to ensure that these owners receive all the rights and benefits due an owner under the leasing regulations, especially those set forth in Rule 024.04.d. through 024.04.k. of this rule. This

is true regardless of whether the lease for the equipment is directly between the authorized carrier and its agent rather than directly between the authorized carrier and each of these owners. The lease between an authorized carrier and its agent shall specify this obligation. (7-1-93)

05. General Exemptions. This subsection is modeled on 49 CFR. 1057.21. Except for Rule 024.03.c. of this rule that requires the identification of equipment, the leasing rules in this part shall not apply to: (7-1-93)

- a. Equipment leased without drivers from a person who is principally engaged in such a business. (7-1-93)
- b. Any type of trailer not drawn by a power unit leased from the same lessor. (7-1-93)

06. Exemption for Leasing Between Authorized Carriers. This paragraph is modeled on 49 CFR. 1057.21. Regardless of the leasing requirements set forth in this rule, an authorized carrier may lease equipment to or from another authorized carrier under the following conditions: (7-1-93)

- a. The identification of equipment requirements in Rule 024.03.c. of this rule must be complied with; (7-1-93)
- b. The lessor must own the equipment or hold it under a lease; (7-1-93)
- c. There must be a written agreement between the authorized carriers concerning the equipment as follows: (7-1-93)
 - i. It must be signed by the parties or their authorized representatives. (7-1-93)
 - ii. It must provide that control and responsibility for the operation of the equipment shall be that of the lessee from the time possession is taken by the lessee and the receipt required under Rule 024.03.b.i. of this Rule is given to the lessor until: (A) possession of the equipment is returned to the lessor and the receipt required under Rule 024.03.b.ii. of this rule is received by the authorized carrier; or (B) possession of the equipment is given to another authorized carrier in an interchange of equipment. (7-1-93)
- d. A copy of the agreement must be carried in the equipment while it is in the possession of the lessee. (7-1-93)
- e. Nothing in this Rule shall prohibit the use by authorized carriers of a master lease if a copy of that master lease is carried in the equipment while it is in the possession of the lessee, and if the master lease complies with the provisions of this section and receipts are exchanged in accordance with Rule 024.03.b. of this rule, and if records of the equipment are prepared and maintained in accordance with Rule 024.03.d. of this rule. (7-1-93)

07. Leasing Authority Prohibited. Any arrangement in which any person is permitted to operate as an independent carrier by reason of a permit of another is specifically prohibited. (7-1-93)

08. Leasing of Vehicles and Supplying Drivers. The leasing of vehicles, with drivers, to shippers and private carriers raises a rebuttable presumption of private carriage when the terms of a lease and operations conducted under it meet the following criteria: (7-1-93)

- a. The equipment subject to the lease is exclusively committed to the lessee's use for the term of the lease. (7-1-93)
- b. During the term of the lease, the lessee accepts, possesses, and exercises exclusive dominion and control over the leased equipment and further assumes complete responsibility for the operation of the equipment. (7-1-93)
- c. The lessee maintains public liability insurance, or surety bonds, in amounts required by law. (7-1-93)

d. The lessee displays appropriate identification on all equipment leased by it, showing operation by the lessee during the performance of such transportation. (7-1-93)

e. The lessee accepts responsibility for, and bears the cost of, compliance with safety and all other requirements imposed during transportation by various federal, state or local regulatory bodies; and (7-1-93)

f. The lessee maintains in effect adequate cargo insurance for the loss or damage to the property being transported throughout the period of the lease, or otherwise remains liable for cargo damage and/or loss. (7-1-93)

09. Filing Leases. A copy of each common or contract carrier lease agreement must be filed with or mailed to the Regulated Carrier Division within one (1) business day of its execution. Operations conducted otherwise are prohibited. Operations of vehicles under leases submitted to the Commission must cease immediately upon notification of the disapproval of the lease. (7-1-93)

025. INTERCHANGE OF EQUIPMENT (Rule 25).

01. Interchange Allowed. Common and contract carriers may interchange equipment according to the terms of a written contract, lease or other agreement. The written agreement must specifically describe: (7-1-93)

a. The equipment to be interchanged; (7-1-93)

b. How the equipment is to be used, and (7-1-93)

c. The compensation for its use. The interchange agreement must be signed by both parties or by their authorized representative. (7-1-93)

02. Identification of Equipment. Power equipment used in interchange must be identified in accordance with MCR 23. (7-1-93)

03. Rates and Revenues. The rates charged and the revenues collected must be accounted for in the same manner as if there had been no interchange. (7-1-93)

04. Documentation Carried in Vehicle. Unless a copy of the interchange agreement is carried on the equipment, the carrier must keep a statement with each vehicle used during interchange service certifying that it is operating the equipment and the use to be made of the equipment. This statement must be signed by both parties to the interchange agreement or their authorized representative. If the parties to the interchange both hold authority for the commodity transported in the territory in which the equipment is being operated under the interchange agreement, the agreement or statement must also: (7-1-93)

a. Identify the equipment by the company or state registration number, (7-1-93)

b. Show the specific point of interchange, and (7-1-93)

c. Show the date and time it assumes responsibility for the equipment. The requirements of this subsection do not apply where the equipment to be operated in interchange service consists only of trailers or semitrailers. (7-1-93)

05. Filing with Commission. A copy of an interchange agreement must be filed with and approved by the Commission before any operation is conducted under the agreement. (7-1-93)

026. TARIFFS (Rule 26).

01. Adoption of Federal Regulations. 49 CFR. 1312.1 through 1312.40 are hereby adopted by reference. On and after July 1, 1994, tariffs must substantially comply with 49 CFR. 1312.1 through 1312.40, applicable to the type of carrier affected, except as these requirements conflict with existing laws of the State of Idaho, or as provided below. On and after October 1, 1994, the filed rates must be fixed, specific rates with no zones of rate variations. (7-1-93)

02. Newly Permitted Carriers. Tariffs of new motor carriers are effective with the issuance of their permit. (7-1-93)

03. Filing New or Revised Tariffs. New tariffs or proposed changes to existing tariffs, including rate increases or decreases, or changes to the practices or services of Idaho common carriers, must be submitted to the Commission in writing with a letter of transmittal. The transmittal must itemize each page or supplement change and be signed by the person issuing the tariff or by the carrier's authorized representative. The transmittal must certify that carriers participating in that tariff and any other person who has requested a copy of that tariff also have been sent the appropriate copies. If a receipt is desired, the carrier must mark the transmittal letter "Receipt Requested" and send an extra copy of the letter with a self-addressed return envelope to which the postage is affixed. A letter of transmittal worded as follows complies with this rule: Enclosed is a copy of "(Tariff being sent)", "Supplement No. to (Tariff)", or "Revised Page No.(s) to (Tariff)". I certify that all subscribers to this publication have also been sent copies, and in case of rejection, such subscribers shall be so notified. (Return Receipt Requested - Optional). (7-1-93)

04. Effectiveness of Change. New tariffs or changes in existing tariffs naming rates, fares, charges, classifications, rules and regulations governing practices and/or services are permitted to become effective as follows: (7-1-93)

a. When a change entails any form of rate increase or reduction of service, it may become effective seven (7) days after receipt by the Commission. (7-1-93)

b. When a change does not entail a rate increase nor a decrease in service, it may become effective one (1) day after receipt by the Commission. (7-1-93)

05. Return of Tariffs. New tariffs or amendments to existing tariffs are reviewed by the Commission. If a tariff filing is not in substantial compliance with this rule, it will be rejected and returned with instructions to correct any described deficiency. Any filing may be noticed for hearing upon the Commission's own motion. (7-1-93)

06. Protests. Any person may protest a filing or rejected filing and may request a hearing. Any request for a hearing for a rejected filing must be filed within fourteen (14) days after the date of the letter of rejection. All protests must contain a detailed statement of reasons supporting the protest, and protestants must state whether or not they will appear at a hearing if one is scheduled. The notice setting the hearing will name the carrier or agent filing the tariff or the change. The notice of hearing will be mailed to all interested parties not less than twenty-one (21) days prior to the date assigned for hearing. (7-1-93)

07. Hearing. All tariff matters that are the subject of a hearing must be supported by appropriate financial data, pro forma exhibits, verified statements or other documentation sufficient to justify those provisions. Matters pertaining to collective rate tariffs must be supported with supplementary evidence from carriers who transport a significant volume of the goods carried by those desiring to participate in the provisions. Failure to comply with this requirement is ground for denial or revocation of the proposed tariff changes. (7-1-93)

08. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this MCR 26 are those contained in the compilation of 49 CFR. 1312.1 through 1312.40 published in the Code of Federal Regulations volume dated October 1, 1992, and as subsequently recompiled. (7-1-93)

027. CONTRACTS (Rule 27).

01. Filing. Complete contracts of contract carriers must be filed with the Commission for review, revision, approval and modification as required under Idaho Code Section 61-806. Contracts and pertinent addenda must contain the authorized signature of both contracting parties. (7-1-93)

02. Termination of Contracts. Contracts between contract carriers and shippers are terminable within the period for which they are written only in the manner provided by the contracts and upon not less than seven (7) days' notice to the Commission and each contracting party. (7-1-93)

03. Contents. Every contract must provide: (7-1-93)

- a. For mutually binding both shipper and carrier; (7-1-93)
- b. The length of time or term of performance by both parties; and (7-1-93)
- c. The rates and charges applicable. (7-1-93)
- 04. Extension. Contracts may be extended past their expiration date by the affirmative action of the contracting parties and upon notification to the Commission, but no contract will be recognized or authorized as being in effect more than three (3) years after filing (or its most recently filed amendment or reauthorization). (7-1-93)

028. -- 030. (RESERVED).

Subchapter D - Relations with Shippers and Passengers
Rules 31 through 40

031. COLLECTION ON DELIVERY (COD) (Rule 31).

- 01. Remittance of Collections. COD collections made by common or contract carriers must be remitted to the consignor within fourteen (14) days after delivery of the COD shipments to the consignee, except for express shipments transported by an authorized passenger carrier, which must be remitted within forty-two (42) days. (7-1-93)
- 02. Security Bond. Carriers performing COD must provide security for remittance of monies collected in the form of a surety bond, or an equivalent (such as a trust account), of not less than one thousand dollars (\$1,000). Upon request of the Commission or its employee, the carrier must produce valid evidence of this security. This Rule does not require carriers to provide COD service. (7-1-93)

032. SHIPPING RECEIPTS, BILLS OF LADING, FREIGHT BILLS, STATEMENTS, PASSENGER TICKETS, INSPECTIONS AND RETENTION OF RECORDS (Rule 32).

- 01. Shipping Records. All common carriers of property (including those drive away or tow away vehicles or trailers), except carriers of items of unusual value who keep daily trip records showing all information necessary for the determination of legal charges, must issue shipping receipts or bills of lading or combinations of the two and freight bills covering all shipments transported, which must show: (7-1-94)
 - a. An itemized list of articles that the shipment contains; (7-1-93)
 - b. Names of consignors and consignees; (7-1-93)
 - c. Points of origin and destination and mileage between those points where freight charges are determined by use of actual or designated miles; (7-1-93)
 - d. Date of shipment; (7-1-93)
 - e. Weights and numbers of articles; (7-1-93)
 - f. All accessorial charges applying to shipment; (7-1-93)
 - g. Rates and charges applicable to the shipment; and (7-1-93)
 - h. Any other necessary information that may relate to assessment of rates. (7-1-93)
- 02. Passenger Service. Carriers of passengers transported on an individual fare basis must issue a ticket to each passenger. (7-1-93)

03. Charter Passenger Service. Common carriers of charter passengers must issue a statement for services showing on its face the following information: (7-1-93)

a. Serial number, which consists of one of a series of consecutive numbers assigned in advance and printed on the statement; (7-1-93)

b. Name of carrier; (7-1-93)

c. Name of person paying the charges, together with name of the organization, if any, for which transportation is provided; (7-1-93)

d. Date or dates upon which transportation is provided; (7-1-93)

e. Origin, destination and general routing of trip; (7-1-93)

f. Number of vehicles used, identification and seating capacity of each; (7-1-93)

g. Number of persons transported; (7-1-93)

h. Mileage upon which charges are based, including any deadhead mileage, which must be separately stated; (7-1-93)

i. Applicable rate per mile, hour, day, or other unit; (7-1-93)

j. Charges for transportation; (7-1-93)

k. Itemized charges for special services, if any, performed by carrier; (7-1-93)

l. Itemized charges for other expenses, such as toll charges, parking fees, layover time, etc.; and (7-1-93)

m. Total charges assessed and collected. During charter carriage, a statement showing the information in Rules 032.03.b. through 032.03.g. must be carried in at least one vehicle with the charter group. Regular or irregular route passengers may not be carried on the same bus with a charter group. (7-1-93)

04. Secondary Mobile Home Transportation. Common carriers of mobile homes transported in secondary movements must comply with all terms of Mobile Home Tariff 104 (and successive reissues or replacements) issued by this Commission, including making pre-trip inspection reports. (7-1-93)

05. Retention of Records. The carrier must retain all shipping receipts, bills of lading, freight bills, statements and inspection reports referred to in this Rule for a period of three (3) years. If any numbered document is spoiled, voided or unused for any reason, a copy or a written record of its disposition must be retained for three (3) years. (7-1-93)

033. EQUIPMENT AND FACILITIES OF PASSENGER CARRIERS (Rule 33).

01. Passenger Security. All terminals and stations must provide adequate security for passengers and their attendants in the form of station personnel, a hired security force, or local police. All terminals shall be regularly patrolled, and every effort shall be made to assure that unauthorized persons do not loiter in terminals or stations and that the safety and security of patrons is not threatened. (7-1-93)

02. Outside Facilities. At terminals and stations that are closed during hours when buses are scheduled to arrive or depart, there shall be available a public telephone, outside lighting, posted schedule information, and telephone numbers of local taxi service and police protection, and, to the extent possible, overhead shelter and information on local accommodations. (7-1-93)

03. Maintenance and Facilities. Every regular route carrier of passengers must provide and maintain

safe and adequate service, equipment and facilities for the transportation of passengers and for the carrying of personal and excess baggage. If the carrier's vehicle has no toilet, then rest stops with complete facilities must be provided at sufficient intervals for the convenience of passengers. All terminal facilities must be kept clean and sanitary, well-lighted, reasonably comfortable and secure for the convenience of the traveling public. (7-1-93)

034. OBLIGATION TO CARRY PASSENGERS (Rule 34).

No common carrier of passengers may refuse to carry any person offering himself or herself who at any scheduled stop tenders the legal fare, except when all seats are occupied or persons offering themselves are in the opinion of the driver boisterous, disorderly, profane, or dangerous to fellow passengers. (7-1-93)

035. FREIGHT CARRIER PROHIBITED FROM CARRYING PASSENGERS (Rule 35).

No common or contract carrier of freight may transport persons with or without compensation on a vehicle used for transporting property exclusively, except that the carrier's employees or representatives of the shipper or receiver connected with carriage of the load may be carried if properly authorized by carrier management. (7-1-93)

036. CLAIMS (Rule 36).

01. Adoption of Federal Regulations. 49 CFR. 1005.2 through and including 1005.6 and 1008.3 through and including 1008.9 are hereby adopted by reference. The procedure for handling claims against carriers is governed by 49 CFR. 1005.2 through and including 1005.6, and 1008.3 through and including 1008.9, except when those requirements conflict with existing laws of the state of Idaho. (7-1-93)

02. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this MCR 36 are those contained in the compilations of 49 CFR. 1005.2 through 1005.6 and 1008.3 through 1008.9 published in the Code of Federal Regulations volume dated October 1, 1992, and as subsequently recompiled. (7-1-93)

037. SMOKING PROHIBITED IN CERTAIN PASSENGER VEHICLES (Rule 37).

The smoking of tobacco or other products is prohibited in common carrier passenger buses, whether interstate, foreign or intrastate, except for a charter or special excursion that has acquired the exclusive use of the vehicle. (7-1-93)

038. PAYMENT OF RATES AND CHARGES/CREDIT ARRANGEMENTS (Rule 38).

01. Payment Due. Except as otherwise provided, all transportation and other lawful charges in connection with the transportation are payable before the carrier's surrender of the property to the consignee. (7-1-93)

02. Credit. Where proper and satisfactory credit arrangements have been made to assure payment of the tariff charges within a specified period, common carriers may relinquish possession of freight in advance of the payment of the tariff charges and may extend credit in the amount of the charges. (7-1-93)

039. -- 040. (RESERVED).

Subchapter E - Applications and Permits
Rules 41 through 50

041. QUALIFICATIONS FOR COMMON AND CONTRACT CARRIER PERMITS/PERMANENT AUTHORITY (Rule 41).

01. Permit Issued to Qualified Applicants. Pursuant to section 61-802, Idaho Code, and MCR 46, a permit for permanent authority may be issued to any qualified applicant for a common or contract carrier permit authorizing the whole or any part of its requested operations if the applicant meets its burden of introduction of evidence and of persuasion to show that and the Commission finds that the applicant has met the requirements of the following paragraphs. (7-1-93)

02. Fitness, Willingness, and Ability to Serve. The applicant must show that it is fit, willing and able to perform properly the proposed service: (7-1-93)

a. To demonstrate financial fitness and ability the application shall show the applicant has and maintains ten percent (10%) equity capital invested in the proposed operation or otherwise demonstrate financial fitness. The applicant must show this by submitting a Form 1002. Form 1002 shall reflect the personal and business operations of the sole proprietorship or partnership and the entire business operation for a corporation. (4-26-95)

b. To demonstrate equipment fitness and ability the application shall include an equipment list that shows that the applicant owns or leases or has the ability to own or lease the equipment necessary to provide the service for the authority granted. (7-1-93)

03. Present or Future Public Convenience and Necessity. The applicant must show that the proposed service will be of present or future public convenience and necessity. (7-1-93)

04. Compliance With Motor Carrier Act and These Rules. The applicant must show that it will conform to the provisions of the Motor Carrier Act and other requirements promulgated by the Commission pursuant to these MCRs. (7-1-93)

a. To demonstrate safety fitness and ability the application shall show that the applicant has received and has maintained a "satisfactory" safety rating or has a "conditional" rating, which will be upgraded to "satisfactory" within one (1) year, as defined in MCR 12. (4-26-95)

b. To demonstrate regulatory compliance the application shall state that the applicant does not have any unfulfilled consent agreements with the Commission or the Commission Staff. (7-1-93)

042. QUALIFICATIONS FOR COMMON AND CONTRACT CARRIER PERMITS/TEMPORARY AUTHORITY (Rule 42).

01. Permit Issued to Qualified Applicants. Pursuant to 61-802A, Idaho Code, and MCR 46 a permit for temporary authority may be issued to any qualified applicant for a common or contract carrier permit authorizing the whole or any part of its requested operations if the applicant meets its burden of introduction of evidence and of persuasion to show that and the Commission finds that the applicant has met the requirements of the following paragraphs. (7-1-93)

02. Fitness, Willingness, and Ability to Serve. The applicant must show that it is fit, willing and able to perform properly the proposed service: (7-1-93)

a. To demonstrate financial fitness and ability the application shall show the applicant has and maintains ten percent (10%) equity capital invested in the proposed operation or otherwise demonstrate financial fitness. The applicant must show this by submitting a Form 1002. Form 1002 shall reflect the personal and business operations of the sole proprietorship or partnership and the entire business operation for a corporation. (4-26-95)

b. To demonstrate equipment fitness and ability the application shall include an equipment list that shows that the applicant owns or leases or has the ability to own or lease the equipment necessary to provide the service for the authority granted. Upon request of the Commission Staff, the applicant must be willing to submit to an equipment inspection before its application for authority is acted upon. (7-1-93)

03. Immediate and Urgent Need for Service. The applicant must show that there is an immediate and urgent need for the service: (7-1-93)

a. To demonstrate the immediate and urgent need for the service for common carrier authority the application shall include one or more shipper support statement(s) (Form 1020) that show a need for the applicant to provide the service for the authority requested. Form 1020 shall include a description of the commodities to be transported, the points or areas to, from or between that the commodities or passengers are to be transported, the volume of traffic and frequency of movement that the shipper will provide the carrier, how soon the service must be provided and the reasons for the time limit, the adverse consequences to the shipper(s) or to the public if the service is not made available, the name and addresses of existing carriers who have either failed or refused to provide the service or cannot handle the volume of service requested, and a statement whether the shipper(s) is (are) willing to appear and offer testimony if a hearing is held. (7-1-93)

b. To demonstrate the present or future public convenience and necessity for contract carrier authority the applicant shall submit a contract or contract(s) that comply with MCR 27 in lieu of Form 1020. (7-1-93)

04. Compliance With Motor Carrier Act and These Rules. The applicant must show that it will conform to the provisions of the Motor Carrier Act and other requirements promulgated by the Commission pursuant to these MCRs: (7-1-93)

a. To demonstrate safety fitness and ability the application shall show that the applicant has received and has maintained a "satisfactory" safety rating or a "conditional" safety rating or has no safety rating under MCR 12. A carrier with an "unsatisfactory" rating is disqualified from receiving temporary authority. Upon request of the Commission Staff, the applicant must be willing to submit to an equipment inspection before its application for authority is acted upon. (4-26-95)

b. To demonstrate regulatory compliance the application shall state that the applicant does not have any unfulfilled consent agreements with the Commission or the Commission Staff. (7-1-93)

05. Additional Requirements for Application. The application for temporary authority is incomplete if it does not include a financial statement (Form 1002), equipment list (Form 1019), shipper support statements or contracts, a record of a satisfactory safety rating, and a statement concerning consent agreements. The administrator of the regulated carrier division may notify the applicant by letter if the application is incomplete, in which case the applicant will have twenty-eight (28) days after the mailing of the administrator's letter to complete the application or the application may be dismissed for failure to comply with this rule. Following such a letter from the administrator, the Commission will ordinarily take no action on the incomplete application for temporary authority, except to dismiss it if it is not completed within twenty-eight (28) days after the administrator's letter is mailed. However, the Commission may find that the public interest requires that an applicant for temporary authority may be relieved of some or all of the requirements of this rule because of an emergency. In such cases, the Commission may act upon and grant applications for temporary authority even though the applications are incomplete. (4-26-95)

043. APPLICATIONS FOR PERMITS AND FOR TRANSFERS, AMENDMENTS, SUSPENSIONS, REINSTATEMENTS, CANCELLATIONS, OR OTHER CHANGES IN COMMON AND CONTRACT CARRIER PERMITS (Rule 43).

01. In General. Applications for new permits, transfers, amendments, suspensions, reinstatements, voluntary cancellation, or other changes in existing common or contract carrier permits must be made in ink or typewritten on forms specified or otherwise approved by the Commission. The forms must be accompanied by documents, fees, and other information required by statute, order, Rule or the Administrator of the Regulated Carrier Division. (7-1-94)

02. New Authority. Applications for new common or contract carrier permits must include: (7-1-93)

a. Application (Form 1001) and passenger carrier addendum (Form 1010-C) if the applicant will carry passengers; (7-1-93)

b. Financial statement (Form 1002); (7-1-93)

c. Equipment list (Form 1019); (7-1-93)

d. If the applicant is a corporation, certificate of good standing from the Secretary of State's Office; (7-1-93)

e. Certificate of assumed business name (if applicable); (7-1-93)

f. Proposed time schedule (if the application is for transporting passengers over regular routes); (7-1-93)

g. Filing fee; and (7-1-93)

- h. Shipper support statement (Form 1020) or contract, if required by rule. (7-1-93)
03. Transfer of Authority. Applications for transfer of common or contract carrier permits must include: (7-1-93)
- a. Application (Form 1010A); (7-1-93)
 - b. Financial statement of transferee (Form 1002); (7-1-93)
 - c. Surrender of old permit or affidavit of loss; (7-1-93)
 - d. Bill of sale; (7-1-93)
 - e. If the applicant is a corporation, certificate of good standing from the Secretary of State's Office; (7-1-93)
 - f. Certificate of assumed business name (if applicable); (7-1-93)
 - g. Complete list of vehicles to be operated by transferee; (7-1-93)
 - h. Filing fee; and (7-1-93)
 - i. Shipper support statement (Form 1020) or contract, if required by rule. (7-1-93)
04. Amended Authority. Applications for amendment of common or contract carrier permits must include: (7-1-93)
- a. Application (Form 1001); (7-1-93)
 - b. Financial statement (Form 1002); (7-1-93)
 - c. Equipment list (Form 1019); (7-1-93)
 - d. Filing fee; and (7-1-93)
 - e. Shipper support statement (Form 1020) or contract, if required by rule. (7-1-93)
05. Change of Name. Applications for a change of name of a common or contract carrier permittee must include: (7-1-93)
- a. Application; and (7-1-94)
 - b. Copies of necessary filings with other government entities showing a change of name (e.g., copies of filing with Secretary of State showing a changed corporate name or with local authorities showing a changed business name); and (7-1-93)
06. Temporary Authority. Applications for temporary common or contract carrier permits must include: (7-1-94)
- a. Application (Form 1014); (7-1-93)
 - b. The other requirements provided under Rule 043.02 of this Rule and MCR 44.03; (7-1-93)
 - c. Filing fee; and (7-1-93)
 - d. Shipper support statement (Form 1020) or contract, if required by rule. (7-1-93)

07. Voluntary Suspension. Applications for voluntary suspension of common or contract carrier permits must include: (7-1-93)
- a. Application (Form 1021); and (7-1-93)
 - b. Filing fee. (7-1-93)
08. Cancellation. Applications for cancellation of common or contract carrier permits must include: (7-1-93)
- a. Application (Form 1009), or (7-1-93)
 - b. Other correspondence requesting cancellation of the permit. (7-1-93)
09. Reinstatement. Application for reinstatement of common or contract carrier permits must include: (7-1-93)
- a. Application (Form 1043); (7-1-93)
 - b. Financial statement; (7-1-93)
 - c. Equipment list; (7-1-93)
 - d. Filing fee; and (7-1-93)
 - e. Shipper support statement (Form 1020) or contract, if required by rule. (7-1-93)

044. ACTION ON APPLICATIONS (Rule 44).

01. Application Fees. Application fees ordinarily will not be returned to the applicant for common or contract authority, notwithstanding that an application may be granted, denied or dismissed. The Commission may upon its own motion return application fees upon a finding that it has no regulatory authority over the applicant's requested operations. (7-1-93)

02. Permanent Authority. Applicants for permanent authority have forty-two (42) days from the date of the Commission Order granting the application to submit to the Commission necessary contracts or tariffs, certificates of insurance and other documents required to be filed with the Commission by statute, Rule or Order. No permit will be issued until all these documents are on file with the Commission. Failure to file these documents within forty-two (42) days is grounds for the Commission Secretary to issue notice that the authority never became effective because of failure to comply with this rule. (7-1-93)

03. Temporary Authority. Applicants for temporary authority must submit to the Commission necessary contracts or tariffs, certificates of insurance and other documents required to be filed with the Commission by statute, Rule or Order before any permit will be issued. The Commission may decline to consider an application for temporary authority until these documents have been filed. (7-1-93)

045. PROCEDURES FOR CONSIDERING APPLICATIONS (Rule 45).

01. In General. The Commission considers applications for new common and contract carrier permits and for transfers, amendments, or any other changes in existing common and contract carrier permits under IDAPA 31.01.01.000 et seq., the Commission's Rules of Procedure (RP). Applications may be considered by hearing or by modified procedure, i.e., by written comments rather than by hearing. (7-1-93)

02. Modified Procedure. Notices of Modified Procedure may be issued upon the Commission's preliminary finding that the Public interest may not require a hearing. The Notice of Modified Procedure allows at least a twenty-one (21) day period for any interested person to file written comments to an application. All protests or

interventions must contain a detailed statement of reasons supporting the protest or intervention and must include an explicit request for a hearing if one is desired. Further, protestants and intervenors must state whether or not they will appear at a hearing if one is scheduled. (7-1-93)

03. Hearing. Hearings are conducted in accordance with Rules of Procedure. If an applicant fails to appear at the hearing, the Commission may dismiss the application. (7-1-93)

046. DESIGNATIONS IN COMMON AND CONTRACT CARRIER PERMITS AND AUTHORITY (Rule 46).

01. Routes. Common and contract carrier permits are required to designate whether the carrier will operate over regular and/or irregular routes. (7-1-93)

02. Geographical Authority. Permits are required to specify the geographical authority of the carrier. The geographical authority of a carrier is one or more of the following regions unless the carrier or applicant requests and justifies a more limited geographical authority. When requesting or designating a region, carriage may be listed as originating within the region (with no restriction on termination) or may be listed as originating carriage within the region with authority to carry a backhaul terminating within the region. The regions are: (7-1-93)

a. North: Adams, Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties; (7-1-93)

b. West: Ada, Adams, Blaine, Boise, Butte, Camas, Canyon, Custer, Elmore, Gem, Gooding, Idaho, Jerome, Lemhi, Lincoln, Owyhee, Payette, Twin Falls, Valley and Washington Counties; (7-1-93)

c. East: Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton and Twin Falls Counties; and/or (7-1-93)

d. Entire state of Idaho. (7-1-93)

03. Designation of Commodities or Passenger Service Required. Permits are required to specify the commodities or passenger group(s) that the carrier is authorized to transport. Carriers applying for authority must specify which of the following commodity or passenger group(s) will be transported. (7-1-93)

04. Freight Commodities: (7-1-93)

a. General commodities (carriage of commodities other than the categories listed below): (7-1-93)

b. Commodities of unusual value transported in armored vehicles. (7-1-93)

c. Express parcel transportation. (7-1-94)

d. Hazardous materials, substances, or wastes requiring one million dollars (\$1,000,000) in insurance coverage. (7-1-94)

e. Hazardous materials, substances or wastes requiring five million dollars (\$5,000,000) in insurance coverage. (7-1-94)

f. Houses, buildings, and structures exceeding fourteen (14) feet wide. (7-1-94)

g. Mobile homes. (7-1-94)

h. Wood residuals. (7-1-94)

05. Classes of Passenger Carriage. (7-1-93)

- a. Passengers in charter service. (7-1-93)
- b. Passengers in charter service by limousine. (7-1-94)
- c. Passengers, irregular route. (7-1-93)
- d. Passengers, regular route. Carriers may request a listing of other authorities in their applications and the Commission may specify other authorities in a permit. (7-1-93)

047. RESTRICTIONS ON COMMON AND CONTRACT CARRIER PERMITS AND AUTHORITY/ MISCELLANEOUS PROVISIONS (Rule 47).

- 01. Original and Copy of Permit. The original common or contract carrier permit is retained by the Commission and a duplicate issued to the carrier. The carrier must keep the duplicate on file at its principal office or place of business, available for inspection at reasonable business hours. Additional copies of the permit may be obtained from the Commission. (7-1-93)
- 02. Permit Numbers. The Commission assigns permit numbers for each authorized carrier. (7-1-93)
- 03. Minors. Permits are not issued to minors. (7-1-93)
- 04. Leasing Permits Prohibited. The leasing, lending or renting of a permit or its operating rights or the conducting of any operation under a permit by a person other than the permittee is prohibited. No lease, device or arrangement constituting the leasing or renting of a permit is authorized or approved by the Commission. (7-1-93)

048. PRIVATE CARRIER PERMITS (Rule 48).

A private carrier's vehicle registration as a private carrier constitutes the carrier's permit under the Motor Carrier Act. No separate application or showing for a private carrier permit or authority is necessary. Private carriers are prohibited from common or contract carriage without securing a common or contract carrier permit. (7-1-93)

049. -- 050. (RESERVED).

**Subchapter E - Miscellaneous
Rules 51 through 60**

051. INTERSTATE AND FOREIGN COMMERCE (Rule 51).

- 01. Applicability of Rules. The following rules apply to motor carriers when engaged in interstate or foreign commerce in Idaho: (7-1-93)
 - a. MCR 17. Controlled substance testing; (7-1-93)
 - b. MCR 18. Transportation of hazardous materials, substances, and wastes; (7-1-93)
 - c. MCR 19. Motor vehicle safety requirements; and (7-1-93)
 - d. MCR 37. Smoking prohibited in certain passenger vehicles. (7-1-93)
- 02. Annual Interstate Registration. It is unlawful for any interstate or foreign carrier with ICC authority to operate upon the highways of Idaho without first registering with the Commission or with the regulatory authority of another State its operating authority granted by the Interstate Commerce Commission. It is unlawful for any exempt or private interstate or foreign carrier to operate on the highways of Idaho without first certifying to the Commission that it is exempt from ICC regulation. For calendar year 1995, registration will be granted by payment of a fee of two dollars (\$2) per vehicle, and for calendar year 1996 and beyond by payment of a fee of one dollar (\$1) per vehicle, paid to this Commission or to the regulatory authority of another State for remittance to this Commission. This registration of a carrier with ICC authority will be revoked by the Commission upon revocation of the operating authority by the Interstate Commerce Commission. (7-1-95)T

03. Adoption of Federal Regulations. 49 C.F.R. Part 1023 is hereby adopted by reference. For registration after calendar year 1994 and beyond, interstate and foreign carriers may register with Idaho or another State as provided under section 4005 of Public Law 102-204, 49 U.S.C. 11506, and 49 C.F.R. Part 1023. (7-1-94)

052. SYSTEM OF ACCOUNTS (Rule 52).

Common and contract carriers are required to maintain a system of accounts in accordance with the provisions of the appendix to these rules. (7-1-93)

053. COMMON CARRIER COLLECTIVE RATEMAKING AGREEMENTS (Rule 53).

A common carrier that participates in collective ratemaking must do so pursuant to tariff bureau agreements and through tariff bureaus complying with these rules. Tariff bureaus and their agreements must conform to the following requirements: (7-1-93)

01. Each Member Must Have a Right to Independent Action. No tariff bureau may interfere with or discourage independent action of a member. (7-1-93)

02. Minutes of Voting Record. Minutes containing the voting record of those in attendance must be kept of all rate committee proceedings. (7-1-93)

03. List of Officers and Committee Members. A list of all officers and committee members of the tariff bureau must be furnished to the Commission. (7-1-93)

04. Open Records. Upon demand, all records of the tariff bureau will be opened for an audit by representatives of the Commission. (7-1-93)

05. Interested Persons. Any interested person (carrier, shipper, bureau, etc.) may initiate a rate proposal before the tariff bureau. (7-1-93)

06. Docketing Proposals. All collective proposals for new or changed rates and related matters must be docketed and adequate notice given. Any interested person must be given the opportunity to express his or her views for or against a proposal either orally or in writing. All interested persons should be given an opportunity to reply. (7-1-93)

07. Open to the Public. All tariff bureau meetings, including committee meetings, are open to the public. (7-1-93)

08. Copy Must Be Served on the Commission. A copy of all proposals received by the tariff bureau pursuant to Rule 053.05.e. of this rule must be served on the Commission by the tariff bureau. (7-1-93)

054. OBEDIENCE AND COMPLIANCE WITH RULES AND REGULATIONS. FORCE OF LAW (Rule 54).

01. Proof of Compliance Required. Whenever requested by any peace officer, employee of this Commission or of the Idaho Transportation Department whose duties include enforcement of any of these rules and regulations, all motor carriers and their agents or employees are required to demonstrate proof of compliance with these rules. (7-1-93)

02. Sanctions. The failure of any motor carrier to obey and comply with these rules and regulations is just and sufficient cause for imposition of the sanctions authorized by Idaho Code, Title 61, Chapters 7 and 8. (7-1-93)

03. Force of Law. These rules have the force and effect of law and violations of them may be subject to punishment as a misdemeanor, as provided by section 61-814 of the Idaho Code, and civil penalties or sanctions as provided by the Motor Carrier Law and/or the Public Utilities Law in Chapter 7, Title 61, Idaho Code. (7-1-93)

055. BASE STATE REGISTRATIONS (Rule 55).

Pursuant to section 61-815A, Idaho Code, and Public Laws 89-170 (for registrations through calendar year 1993) or 102-240 (for registrations for calendar year 1994 and beyond), 49 U.S.C. Section 11506, interstate carriers may register their interstate operations in Idaho with the Commission, with Idaho as their base state for reciprocal registrations with other States participating in the base state agreement. The Commission may enter into reciprocal agreements with the regulatory agencies of other States to provide that interstate registrations for the participating States may be accomplished by registration in one base state. Carriers electing to register in Idaho as a base state are subject to the jurisdiction and authority of the Commission to the same extent as they would be if they did not participate in the base state registration, except, in lieu of the filing fees or regulatory fees that would otherwise be collected under the Motor Carrier Act, the fees authorized by Public Laws 89-170 or 102-240, or subsequent acts of Congress, or such lesser fees as the participating States may agree to, may be collected. This Commission further requires filings of certificates of insurance or surety bonds to show the carrier's eligibility to operate. (7-1-93)

056. -- 999. (RESERVED).