

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. -- 017. (RESERVED).	8
018. TRANSPORTATION OF HAZARDOUS MATERIALS, SUBSTANCES AND WASTES (Rule 18).	8
019. CARRIER SAFETY REQUIREMENTS (Rule 19).	9
020. (RESERVED).	10
021. INSURANCE REQUIREMENTS (Rule 21).	10
022. CERTIFICATES OF INSURANCE (Rule 22).	11
023. VEHICLE AND CARRIER IDENTIFICATION (Rule 23).	12
024. LEASES OF EQUIPMENT (Rule 24).	12
025. -- 030. (RESERVED).	13
031. COLLECTION ON DELIVERY (COD) (Rule 31).	13
032. SHIPPING RECEIPTS, BILLS OF LADING, FREIGHT BILLS, STATEMENTS, PASSENGER TICKETS, INSPECTIONS AND RETENTION OF RECORDS (Rule 32).	14
033. EQUIPMENT AND FACILITIES OF PASSENGER CARRIERS (Rule 33).	15
034. OBLIGATION TO CARRY PASSENGERS (Rule 34).	15
035. FREIGHT CARRIER PROHIBITED FROM CARRYING PASSENGERS (Rule 35).	15
036. CLAIMS (Rule 36).	15
037. SMOKING PROHIBITED IN CERTAIN PASSENGER VEHICLES (Rule 37).	16
038. -- 040. (RESERVED).	16
041. QUALIFICATIONS FOR COMMON/CONTRACT CARRIER PERMITS/ PERMANENT AUTHORITY (Rule 41).	16
042. QUALIFICATIONS FOR COMMON/CONTRACT CARRIER PERMITS/ TEMPORARY AUTHORITY (Rule 42).	16
043. APPLICATIONS FOR PERMITS AND FOR TRANSFERS, AMENDMENTS, SUSPENSIONS, REINSTATEMENTS, CANCELLATIONS, OR OTHER CHANGES IN COMMON/CONTRACT CARRIER PERMITS (Rule 43).	17

044. ACTION ON APPLICATIONS (Rule 44). 18
045. PROCEDURES FOR CONSIDERING APPLICATIONS (Rule 45). 19
046. (RESERVED). 19
047. RESTRICTIONS ON COMMON AND CONTRACT CARRIER PERMITS AND
AUTHORITY/MISCELLANEOUS PROVISIONS (Rule 47). 19
048. PRIVATE CARRIER PERMITS (Rule 48). 19
049. -- 050. (RESERVED). 19
051. INTERSTATE AND FOREIGN COMMERCE (Rule 51). 19
052. -- 053. (RESERVED). 20
054. OBEDIENCE AND COMPLIANCE WITH RULES AND REGULATIONS. FORCE
OF LAW (Rule 54). 20
055. BASE STATE REGISTRATIONS (Rule 55). 20
056. -- 999. (RESERVED). 20

**IDAPA 31
TITLE 61
Chapter 01**

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, not preempted by federal laws, all of which 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. (4-1-98)

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 and other filings relating to motor carriers maintained by the Commission pursuant to law. In addition, 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, PO Box 83720, Boise, Idaho 83720-0074, or may be reached by telephone at (208) 334-0300. For future rulemakings written interpretations 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. (4-1-98)

003. ADMINISTRATIVE APPEALS (Rule 3).

All administrative appeals under the Motor Carrier Rules are conducted under the Commission's rules of procedure, IDAPA 31.01.01.000 et seq. (4-1-98)

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. (4-1-98)

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: (4-1-98)

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 Subsections 005.02, 005.03, and 005.10). (4-1-98)

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, time schedules, insurance filings, 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. (4-1-98)

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
PO BOX 83720
Boise, Idaho 83720-0074
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 (1) 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, 18, 19, 21, 24, 36, and 51. Federal Regulations are adopted by reference in MCR 18, 19, 21, 24, 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. (4-1-98)

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 and to take remedial action when required. 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. This Rule applies to all intrastate motor carriers subject to the jurisdiction of the Idaho Public Utilities Commission as follows: (4-1-98)

- a. All motor carriers operating a vehicle with a gross weight exceeding ten thousand (10,000) pounds or transporting a placardable quantities of hazardous materials and all common/contract carriers of passengers are automatically subject to this rule, the standards of Subsections 012.02 through 012.05 of this rule, and this rule's requirements. (4-1-98)
- b. 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. (4-1-98)
02. Definitions. The following definitions apply in this rule: (4-1-98)
- a. "Applicable safety regulations or requirements" mean: (7-1-93)
- i. Safety regulations and statutes of the state of Idaho; (4-1-98)
- ii. Federal regulations adopted by reference in MCR 18. Transportation of Hazardous Materials, Substances and Wastes; and (4-1-98)
- iii. Federal regulations adopted by reference in MCR 19. Motor Carrier Safety Requirements. (4-1-98)
- 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 investigate a complaint, based upon reports of accidents, violations, and other indicators, or as part of a routine periodic inspection of a motor carrier. The compliance review may result in the initiation of an enforcement action. (4-1-98)
- 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 (4-1-98)
- ii. Could have been averted but for an act, or failure to act, by the motor carrier or the driver. (4-1-98)
- 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)
03. Safety Fitness Standards. 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: (4-1-98)
- a. Commercial drivers license standard violations (49 CFR Part 383); (4-1-98)
- b. Inadequate levels of financial responsibility (49 CFR Part 387); (4-1-98)
- c. The use of unqualified drivers (49 CFR Part 391); (4-1-98)
- d. Improper use or driving of motor vehicles (49 CFR Part 392); (4-1-98)
- e. Unsafe vehicles operating on the highways (49 CFR Part 393); (4-1-98)
- f. The use of fatigued drivers (49 CFR Part 395); (4-1-98)
- g. Inadequate inspection, repair, and maintenance of vehicles (49 CFR Part 396); (4-1-98)

- h. Transportation of hazardous materials, driving and parking Rule violations (49 CFR Part 397); (4-1-98)
 - i. Violation of hazardous materials regulations (49 CFR Parts 170-178 and 180); and (4-1-98)
 - j. Motor vehicle accidents and hazardous materials incidents. (7-1-93)
04. Factors to Be Considered in Determining the Safety Fitness. The factors to be considered in determining safety fitness may include all or some of the following: (4-1-98)
- 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 Safety Fitness. Following a compliance review of a motor carrier operation, the Safety Management Review Coordinator, using the factors prescribed in Subsection 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 Subsection 012.03 of this rule. (4-1-98)
06. Notification of Safety Fitness. Following a 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. Notification will include a list of those items for which immediate corrective actions must be taken. (4-1-98)
07. Motor Carrier Certification. Upon notification of violations cited in the compliance review and recommendations made to correct violations 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. (4-1-98)
08. 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)
09. Obedience and Compliance. The failure of any motor carrier to abide by the motor carrier fitness standards as required by this Rule may be deemed just and sufficient cause for imposition of the sanctions authorized

by Section 61-808, Idaho Code, and other sanctions as set forth in MCR 54 (Obedience and Compliance with Rules and Regulations--Force of Law). (4-1-98)

013. -- 017. (RESERVED).

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

01. Adoption of Federal Regulations. 49 CFR Parts 107, 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 107, 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, 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. (4-1-98)

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 107, 171, 172, 173, 177, 178 and 180 must obtain copies of these federal regulations and make them available to their drivers and other personnel handling hazardous materials, substances or wastes and must familiarize their drivers and other personnel handling hazardous materials, substances or wastes with any regulation pertaining to the particular material, substance or waste that is transported. 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: (4-1-98)

Subchapter C - Hazardous Materials Regulations

- a. Part 107. Hazardous Materials Program Procedures. (4-1-98)
- b. Part 171. General Information, Regulations and Definitions. (7-1-93)
- c. Part 172. Hazardous Materials Tables and Hazardous Materials Communications Regulations. (7-1-93)
- d. Part 173. Shippers-General Requirements for Shipments and Packaging. (7-1-93)
- e. Parts 174-176. (Not adopted regulations for railroads, aircraft and vessels). (7-1-93)
- f. Part 177. Carriage by Public Highway. (7-1-93)
- g. Part 178. Shipping Container Specifications. (7-1-93)
- h. Part 179. (Not adopted regulations for rail tanker cars). (7-1-93)
- i. 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, 1997, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1997, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. (4-1-98)

019. CARRIER SAFETY REQUIREMENTS (Rule 19).

01. Adoption of Federal Regulations. 49 CFR Parts 382, 383, 385, 388 and 390 through 399 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 382, 383, 385, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). In particular, Parts 390 through 399 apply to intrastate common/contract passenger carriers, regardless of the size of vehicle operated. 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 (1) 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. (4-1-98)

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 Subsection 019.01 of this Rule and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this 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 382. Controlled Substance and Alcohol Use and Testing. (4-1-98)
- b. Part 383. Commercial Driver's License Standards; Requirements and Penalties. (7-1-93)
- c. Part 385. Safety Fitness Standards. (4-1-98)
- d. Part 388. Cooperative Agreements with States. (7-1-93)
- e. Part 390. Federal Motor Carrier Safety Regulations: General. (7-1-93)
- f. Part 391. Qualifications of Drivers. (7-1-93)
- g. Part 392. Driving of Motor Vehicles. (7-1-93)
- h. Part 393. Parts and Accessories Necessary for Safe Operation. (7-1-93)

- i. Part 395. Hours of Service of Drivers. (7-1-93)
 - j. Part 396. Inspection, Repair and Maintenance. (7-1-93)
 - k. Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (7-1-93)
 - l. Part 398. Transportation of Migrant Workers. (7-1-93)
 - m. 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 Subsection 019.01, the federal waiver will also be recognized under these rules. The Commission reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-1-98)
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 382, 383, 385, 388 and 390 through 399 published in the Code of Federal Regulations volumes dated October 1, 1997, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. (4-1-98)

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/contract passenger carriers are: (4-1-98)
- 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 Division 1.1, 1.2 or 1.3; (4-1-98)
 - ii. Any quantity of Division 2.3, Hazardous Zone A, or Division 6.1, Packing Group 1, Hazardous Zone A; (4-1-98)
 - iii. Highway route controlled quantity of Class 7 material as defined in 49 CFR 173.403; (4-1-98)

- 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 (3,500) water gallons; or (7-1-93)
- v. Division 2.1 or 2.2 in bulk; (4-1-98)
- b. One million dollars (\$1,000,000) for carriers: (7-1-93)
 - i. Of oil listed in 49 CFR 172.101; or (7-1-93)
 - ii. 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 171.8 and 387.5 are hereby adopted by reference. Definitions of terms used in this rule: (4-1-98)
 - a. "Environmental Restoration" means restoration for the loss, damage, or destruction of natural resources arising out of the accidental 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 shall include the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife. See 49 CFR 387.5. (4-1-98)
 - b. "Hazardous Material" means a substance or material, that has been determined by the Secretary 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. The term includes hazardous substances, hazardous wastes, marine pollutants, and elevated temperature materials and materials designated as hazardous under the provisions of 49 CFR 172.101, and materials that meet the defining criteria for hazard classes and divisions in 49 CFR 173. See 49 CFR 171.8. (4-1-98)
 - 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, 1997, and as subsequently recompiled and all amendments to these rules appearing in the Federal Registers. (4-1-98)

022. CERTIFICATES OF INSURANCE (Rule 22).

- 01. Filing. Common/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 Subsection 022.04. (4-1-98)

02. Forms. The certificates for intrastate common/contract carriers must be either a Form E, 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. For interstate carriers registered under the single state registration system the federal forms authorized by the U.S. Department of Transportation as set forth in Subpart C of 49 CFR Part 387. 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. (4-1-98)

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/contract carrier (except limousines or other similar passenger vehicles seating fewer than seven (7) 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: (4-1-98)

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 shall be in the following form: "IPUC_____". Drive-away vehicles must display a temporary identification. (4-1-98)

02. Removal of Number. This identification number must be removed whenever the vehicle is no longer operated under the common/contract permit. (4-1-98)

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. All leases of equipment shall conform to the lease regulations of the Federal Highway Administration, specifically 49 CFR Sections 376.2, 376.11, 376.12, and 376.21(c) and (d), with the following modifications: (4-1-98)

a. In Section 376.2(a) the word "motor" is changed to "common/contract" and the language "49 U.S.C. 13901 and 13902" is changed to read "Idaho Code Sections 61-802, 61-802A, and 61-807". (4-1-98)

b. In Section 376.2(j) the words "interstate or foreign" are changed to "intrastate". (4-1-98)

c. In Section 376.2(k) the words "interstate or foreign" are changed to "intrastate". (4-1-98)

d. The language in the introductory paragraph to Section 376.11 which reads, "Other than through the interchange of equipment as set forth in Section 376.31 and under the exemptions set forth in Subpart C of these regulations," is deleted. (4-1-98)

e. In Section 376.11(c)(1) the words "FHWA's requirements in 49 CFR Part 398 of this chapter" are changed to read "Commission's Motor Carrier Rule 23". (4-1-98)

- f. Section 376.12(c)(3) is deleted. (4-1-98)
- g. In Section 376.12(j)(1) the language "FHWA's regulations under 49 U.S.C. 13906" is changed to read "Commission's Motor Carrier Rule 21." (4-1-98)
02. 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)
03. 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)
04. 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)
05. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this MCR 24 are those contained in the compilation of 49 CFR Part 1057 published in the Code of Federal Regulations volume dated October 1, 1996, and as subsequently recompiled. Part 1057 was redesignated as 49 CFR 376 in the issue of October 21, 1996, Fed. Reg. 54705, and as amended in the issue of April 1, 1997, Fed. Reg. 15417. (4-1-98)

025. -- 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 (2) 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 (1) 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 (1) 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 Items 230, 295 and 300(f) of Mobile Home Tariff 104 (and successive reissues or replacements) issued by this Commission, which requires pre-trip inspection reports to be completed and prescribed information to be given to customers before the transportation is performed. (4-1-98)

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. (4-1-98)
 - a. 49 CFR 370.3 through and including 370.11, except for 370.9(b), are hereby adopted by reference as the procedure for handling claims against carriers for loss and damage. (4-1-98)
 - b. 49 CFR 378.3 through and including Section 378.9 are hereby adopted by reference as the procedures for handling claims against carriers for overcharge, duplicate payment, or over collection. (4-1-98)

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, except for 1005.5(b), and 1008.3 through 1008.9 published in the Code of Federal Regulations volume dated October 1, 1996, and as subsequently recompiled. Part 1008 of 49 CFR Chapter X was transferred to 49 CFR Chapter III and redesignated as Part 378 of 49 CFR Chapter III in the issue of October 21, 1996, 61 Fed. Reg. 54705, then amended with technical changes only in the issue of April 1, 1997, 62 Fed. Reg. 15417. Part 1005 of 49 CFR Chapter X was adopted and incorporated into Part 370 of 49 CFR Chapter III, with technical amendments, in the issue of June 12, 1997, 62 Fed. Reg. 32040.

(4-1-98)

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. -- 040. (RESERVED).

SUBCHAPTER E - APPLICATIONS AND PERMITS
RULES 41 THROUGH 50

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

01. Permit Issued to Qualified Applicants. Pursuant to Section 61-802, Idaho Code, a permit for permanent authority may be issued to any qualified applicant if the Commission finds that the applicant has met the requirements of the following paragraphs.

(4-1-98)

02. Fitness, Willingness, and Ability to Serve. The applicant must show that it is fit, willing and able to perform properly the proposed service while complying with the motor carrier safety regulations and financial responsibility requirements. Upon request of the Commission Staff, the applicant must be willing to submit to an equipment inspection and/or compliance review before its application for authority is acted upon.

(4-1-98)

03. Compliance With Motor Carrier Act and These Rules. To demonstrate regulatory compliance, the application shall state that the applicant does not have any unfulfilled consent agreements with the Commission and certify that the applicant will conform to the provisions of the Motor Carrier Act and other requirements promulgated by the Commission pursuant to these MCRs.

(4-1-98)

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

01. Permit Issued to Qualified Applicants. Pursuant to 61-802A, Idaho Code, a permit for temporary authority may be issued to any qualified applicant if the Commission finds that the applicant has met the requirements of the following paragraphs.

(4-1-98)

02. Fitness, Willingness, and Ability to Serve. The applicant must show that it is fit, willing and able to perform properly the proposed service while complying with the motor carrier safety regulations and financial responsibility requirements. Upon request of the Commission Staff, the applicant must be willing to submit to an equipment inspection and/or compliance review before its application for authority is acted upon.

(4-1-98)

03. Immediate and Urgent Need for Service. The applicant must show that there is an immediate and urgent need for the service as determined by the Commission.

(4-1-98)

04. Compliance With Motor Carrier Act and These Rules. To demonstrate regulatory compliance, the application shall state that the applicant does not have any unfulfilled consent agreements with the Commission and certify that the applicant will conform to the provisions of the Motor Carrier Act and other requirements promulgated by the Commission pursuant to these MCRs.

(4-1-98)

05. Additional Requirements for Application. The application for temporary authority is incomplete if it does not include a certificate of insurance as required by MCR 22. 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 one hundred eighty (180) 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 one hundred eighty (180) 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. (4-1-98)

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

01. In General. Applications for new permits, transfers, amendments, suspensions, reinstatements, voluntary cancellation, or other changes in existing common/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. (4-1-98)

02. New Authority. Applications for new common/contract carrier permits must include: (4-1-98)
- a. Application (Form 1001); (4-1-98)
 - b. Filing fee; (4-1-98)
 - c. Proof of payment of regulatory fees; and (4-1-98)
 - d. Certificate of insurance as required by MCR 22. (4-1-98)

03. Transfer of Authority. Applications for transfer of common/contract carrier permits must include: (4-1-98)
- a. Application (Form 1010A); (7-1-93)
 - b. Surrender of old permit or affidavit of loss; (7-1-93)
 - c. Bill of sale; (7-1-93)
 - d. Filing fee; (4-1-98)
 - e. Proof of payment of regulatory fees; and (4-1-98)
 - f. Certificate of insurance as required by MCR 22. (4-1-98)

- include: 04. Amended Authority. Applications for amendment of common/contract carrier permits must include: (4-1-98)
- a. Application (Form 1001); (7-1-93)
 - b. Filing fee; (4-1-98)
 - c. Proof of payment of regulatory fees; and (4-1-98)
 - d. Certificate of insurance as required by MCR 22. (4-1-98)

05. Change of Name. Request for a change of name of a common/contract carrier permittee must be in writing and include a certificate of insurance as required by MCR 22 that reflects the name change. (4-1-98)
06. Temporary Authority. Applications for temporary common/contract carrier permits must include: (4-1-98)
- a. Application (Form 1014); (7-1-93)
 - b. Filing fee; (4-1-98)
 - c. Proof of payment of regulatory fees; and (4-1-98)
 - d. Certificate of insurance as required by MCR 22. (4-1-98)
07. Voluntary Suspension. Applications for voluntary suspension of common/contract carrier permits must include: (4-1-98)
- a. Application (Form 1021); and (7-1-93)
 - b. Filing fee. (7-1-93)
08. Cancellation. Applications for cancellation of common/contract carrier permits must include: (4-1-98)
- 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/contract carrier permits must include: (4-1-98)
- a. Application (Form 1043); (7-1-93)
 - b. Filing fee; (4-1-98)
 - c. Proof of payment of regulatory fees; and (4-1-98)
 - d. Certificate of insurance as required by MCR 22. (4-1-98)

044. ACTION ON APPLICATIONS (Rule 44).

01. Application Fees. Application fees ordinarily will not be returned to the applicant for common/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. (4-1-98)

02. Permanent Authority. Applicants for permanent authority have thirty (30) days from the date of the Commission Order granting the application to submit to the Commission certificate 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 thirty (30) days is grounds for the Commission Secretary to issue notice that the authority never became effective because of failure to comply with this rule. (4-1-98)

03. Temporary Authority. Applicants for temporary authority must submit to the Commission necessary 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 or the administrator of the regulated carrier division may notify the applicant by letter that the application has been dismissed for failure to abide by the conditions set forth in this rule. (4-1-98)

045. PROCEDURES FOR CONSIDERING APPLICATIONS (Rule 45).

01. In General. The Commission considers applications for new common/contract carrier permits and for transfers, amendments, or any other changes in existing common/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. (4-1-98)

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. (RESERVED).

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

01. Original and Copy of Permit. The original common/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. (4-1-98)

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/contract carriage without securing a common or contract carrier permit. (4-1-98)

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 18. Transportation of hazardous materials, substances, and wastes; (7-1-93)

- b. MCR 19. Motor vehicle safety requirements; and (7-1-93)
- c. 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 or registration from the U.S. Department of Transportation 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 or registration from the U.S. Department of Transportation. 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 an ICC authority or registration with the U.S. Department of Transportation. For calendar year 1997 and beyond registration will be granted upon 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. The registration of a carrier with ICC authority or registration from the U.S. Department of Transportation will be revoked by the Commission upon revocation of the operating authority or registration by the U.S. Department of Transportation. (4-1-98)

03. Adoption of Federal Regulations. 49 CFR Part 367 is hereby adopted by reference. For registration after calendar year 1997 and beyond, interstate and foreign carriers may register with Idaho or another State as provided under section 4005 of Public Law 102-240, 49 U.S.C. 3301, and 14504. (4-1-98)

04. Version of Federal Regulations Adopted. The federal regulations adopted by reference in the MCR 51 are those contained in the compilation of 49 CFR Part 1023, published in the Code of Federal Regulations volume dated October 1, 1996 and redesignated as 49 CFR Part 367 in the issue of October 21, 1996, Fed. Reg. 54705, and as amended in the issue of April 1, 1997, Fed. Reg. 15417. (4-1-98)

052. -- 053. (RESERVED).

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 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. (4-1-98)

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 (1) 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. (4-1-98)

056. -- 999. (RESERVED).