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**IDAPA 11
TITLE 10
CHAPTER 03**

11.10.03 - RULES GOVERNING THE SEX OFFENDER REGISTRY

000. LEGAL AUTHORITY.

The Idaho State Police has authority to make rules to implement the sex offender central registry pursuant to Title 18, Chapter 83, Idaho Code, Sections 18-8301 through 18-8326. (3-18-99)

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 11.10.03, "Rules Governing the Sex Offender Registry." The rules relate to the administration of the state's sex offender central registry, which includes both adult and juvenile offenders. (3-18-99)

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (3-18-99)

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (3-18-99)

004. INCORPORATION BY REFERENCE.

There are no incorporation documents in these rules. (4-11-06)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (4-11-06)

02. Mailing Address. The mailing address for the business office is Sex Offender Registry, Idaho State Police, Bureau of Criminal Identification, 700 S. Stratford Dr., Suite 120, Meridian, ID 83864. (4-11-06)

03. Street Address. The business office for the Sex Offender Registry is located at 700 S. Stratford Dr., Suite 120, Meridian ID 83864. (4-11-06)

04. Telephone. The telephone number for the Sex Offender Registry is 208-884-7305. (4-11-06)

05. Internet Websites. (4-11-06)

a. The Department's internet website is found at <http://www.isp.state.id.us>. (4-11-06)

b. The Central Sex Offender Registry internet website is found at http://www.isp.state.id.us/identification/sex_offender/index.html. (4-11-06)

006. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 9, Chapter 3, Idaho Code). (4-11-06)

007. -- 009. (RESERVED).

010. DEFINITIONS.

01. Bureau. "Bureau" means the Bureau of Criminal Identification, Idaho State Police. (3-18-99)

02. Central Registry. "Central Registry" means the state-level records system containing information, photographs and fingerprints relating to persons required to register as a sex offender under Title 18, Chapters 83 and 84, Idaho Code. (3-18-99)

- 03. Department.** “Department” means the Idaho State Police. (3-18-99)
- 04. Director.** “Director” means the director of the Idaho State Police. (3-18-99)
- 05. Working Days.** “Working Days” means each day except Saturday, Sunday, or a legal state holiday. (3-18-99)

011. SEX OFFENDER CENTRAL REGISTRY -- ADMINISTRATION.

01. Central Registry Established. Pursuant to Title 18, Chapter 83, Idaho Code, the department establishes a sex offender central registry in the bureau of criminal identification. The bureau is responsible for administration of the central registry pursuant to the requirements set forth in Title 18, Chapters 83 and 84, Idaho Code and these rules. (3-18-99)

02. Form. The following form and procedures are prescribed for providing notice to and collecting information from persons required to register as a sex offender pursuant to Title 18, Chapters 83 and 84, Idaho Code. (4-11-06)

a. “Idaho Sex Offender Registry Notification and Registration Form.” This two (2) page form notifies an offender of the duty to register and collects from an offender information required for first-time registration in a county, annual re-registration in a county, or any change of address or status within the county of residence. This form is also used for change of name. The court, correctional agency, or the sheriff shall forward the original copy, along with the offender’s photograph and fingerprints, when taken at the sheriff’s department, to the bureau within three (3) working days of completing the form. (4-11-06)

03. Information Required at Initial Registration. In addition to the information required by Section 18-8307(8), Idaho Code, the “Idaho Sex Offender Registry Notification and Registration Form” shall collect the following information: (4-11-06)

a. Whether the offender is registering as an adult under Title 18, Chapter 83, Idaho Code, or as a juvenile under Title 18, Chapter 84, Idaho Code; (3-18-99)

b. Physical description of the offender, including gender, race, height, weight, eye color, hair color, and scars, marks, and tattoos; (3-18-99)

c. Offender’s occupation and name and place of employment; (3-18-99)

d. The name and location of a school, college, or university that the offender attends; and (3-18-99)

e. Name of the offender’s probation/parole officer. (3-18-99)

04. Photographs and Fingerprints. Whenever the Idaho Sex Offender Registry Notification and Registration Form is used to register an offender who moves into a county or within a county, to re-register an offender annually, or register an offender who resides out of state but is employed in the state or enrolled in an institution of higher learning as defined in Section 18-8304(1)(d), it is submitted to the central registry with the offender’s photograph and fingerprints. (4-11-06)

a. An offender’s photograph shall be in color. The sheriff shall forward one (1) photograph of the offender with each registration. Photographs submitted to the central registry shall be a copy of the new photographs taken at the time of each registration. From collected registration fees, the sheriff shall pay to the state the cost of photography materials lawfully required by a state agency or department. (4-11-06)

b. The sheriff shall submit the required fingerprints on the federal bureau of investigation form FD-249. For each registrant, the sheriff shall forward one (1) FBI fingerprint cards with each registration Form. (4-11-06)

05. Change of Address or Status Notification. (5-3-03)

a. When an offender changes address or actual residence within a county, the offender will complete

within five (5) days after the change Idaho Sex Offender Registry Notification and Registration Form to provide the required notification. (4-11-06)

b. When an offender moves to another county to establish permanent or temporary domicile, the offender must register as a new resident with the sheriff having jurisdiction within ten (10) days of moving to the other county. (5-3-03)

c. When an offender moves to another state, the offender shall notify the central registry by certified mail within five (5) days after moving to the other state. (5-3-03)

d. When an offender enrolls as a student at or becomes an employee of a school, college, or university in the state, the offender, whether such enrollment or employment is part-time or full-time and is for more than fourteen (14) days or an aggregate period exceeding thirty (30) days per year, will complete within five (5) days of the commencement of employment or enrollment the Idaho Sex Offender Registry Notification and Registration Form to provide the required notification. (4-11-06)

e. When an offender, who is a student at or an employee of a school, college, or university, changes status as a student or employee, the offender will complete within five (5) days of the change of status the Idaho Sex Offender Registry Notification and Registration Form to provide the required notification. (4-11-06)

f. When a nonresident offender is required to register pursuant to Section 18-8304(1)(d), Idaho Code, the offender must register, within ten (10) days of the commencement of employment or enrollment, with the sheriff having jurisdiction. When the status of such employment or enrollment changes, the offender will complete within five (5) days after the change the Idaho Sex Offender Registry Notification and Registration Form to provide required notification. (4-11-06)

06. Notification to Local Law Enforcement. The bureau will provide to a local law enforcement agency on its request a list of registered sex offenders residing in its jurisdiction. The bureau will notify the local law enforcement agency with jurisdiction any time the bureau becomes aware of a change of status or residence of a registered sex offender and of a registered offender's intent to reside in the agency's jurisdiction. Whenever practical, the bureau will provide notification using the Idaho law enforcement telecommunication system (ILETS). (3-18-99)

07. Notification to Other States. Within one (1) working day of receiving notification that a registered sex offender is moving to another state, the bureau will notify the receiving state's designated sex offender registration agency of the move by mail or electronic means. (3-18-99)

08. Expungement of Central Registry Information. (3-18-99)

a. Upon receipt of a certified copy of a death certificate recording the death of a person registered with the central registry, the bureau will expunge all records concerning the person from the central registry. (3-18-99)

b. Upon receipt of a duly attested copy of a pardon issued by the governor of a state as to a conviction reported to the central registry, the bureau will expunge all records concerning the conviction from the central registry. If the pardoned person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. (3-18-99)

c. Upon receipt of a duly attested document from a court clerk that a conviction previously reported to the central registry has been reversed or dismissed by the court, except where such a dismissal is on a withheld judgment, the bureau will expunge all records concerning the conviction from the central registry. If the person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. An offender registered for a withheld judgment is required to obtain relief from registration under provisions of Section 18-8310, Idaho Code. (5-3-03)

d. Upon receipt of a duly attested document from a court clerk that a registered sex offender has been released by the court from registration requirements pursuant to Section 18-8310, Idaho Code, the bureau will expunge all records and references concerning the offender from the central registry. (3-18-99)

09. Correction of Central Registry Information. (3-18-99)

a. A person registered pursuant to Title 18, Chapters 83 or 84, Idaho Code, may submit a written request to the bureau to correct or modify information regarding that person in the central registry for the purpose of making the information accurate and complete. The bureau will respond to the request in writing within thirty (30) days after receipt of the request. When a request is denied, in whole or part, the bureau will explain the reasons for the decision. (3-18-99)

b. A person whose request, under Subsection 011.09.a. of this Section, is denied, in whole or part, may appeal to the director for review of the decision within thirty (30) days after the mailing of the bureau's written response. The appeal must be in writing and must set out the reasons for the appeal. The decision of the director will be in writing and made within forty-five (45) calendar days after the department's receipt of the appeal. (3-18-99)

012. RELEASE OF INFORMATION TO THE PUBLIC.

01. Methods of Access. (4-11-06)

a. Any person may inquire on a named person or obtain a list of sex offenders by geographic area by submitting a completed Request for Information Form SOR-4 to the bureau or local sheriff. The bureau or sheriff may only provide public access to central registry information by means of a completed Form SOR-4, which must include the requester's full name, address, and either driver's license number or social security number. The bureau or sheriff shall respond to a completed Form SOR-4 within ten (10) working days of receipt. A sheriff may refer a person to the bureau for public access to the central registry. (4-11-06)

b. Any person can access registration information via an authorized web site. (4-11-06)

02. Geographic Lists. Any person using a Form SOR-4 may request a list of offenders by county or zip code or any person may obtain a list of offenders by county or zip code from the bureau web site. (4-11-06)

03. Information Released. Only central registry information authorized for release pursuant to Section 18-8323(2), Idaho Code, may be provided by the bureau or sheriff in response to a completed Form SOR-4 or as a response to a query of the web site. A conviction of incest (Section 18-6602, Idaho Code, or equivalent offense) shall be reported as sexual abuse of a child under sixteen (16) years of age (Section 18-1506, Idaho Code). (4-11-06)

04. Fee for Accessing Information. The bureau shall collect a fee of five dollars (\$5) for each inquiry on a named person or for each request for a list of sex offenders by geographic area. Schools, state agencies, and nonprofit organizations working with youth, women, or other vulnerable populations are exempt from payment of the fee. The bureau may request information additional to that required by the Form SOR-4 to determine eligibility status for nonfee access to central registry information. A registered offender may request a copy of the offender's own central registry information without payment of a fee. Any person can access registration information without charge on the bureau's web site. (4-11-06)

05. Photographs. Any person may request the photograph of a registered sex offender by submitting to the bureau a completed Request for Registry Photograph Form SOR-5. The bureau may only provide public access to central registry photographs by means of a completed Form SOR-5, which must include the requester's full name, address, and either driver's license number or social security number. Any person can access registration photos via the bureau's or an authorized web site. (4-11-06)

06. Fee for Photographs. The bureau shall collect a fee of five dollars (\$5) for each photograph provided in response to a completed Form SOR-5. Any person can access registration photos without charge on the bureau's web site. (4-11-06)

07. Retention of Request Forms. The bureau and all sheriffs shall retain in their files the original copies of forms SOR-4 and SOR-5 for a period of two (2) years from the date of submission. These forms are available for inspection only by law enforcement and criminal justice agencies. (3-18-99)

013. -- 999. (RESERVED).

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