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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 18-8331. (3-29-12)

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)

01. Exception. Any decision rendered by the central registry will be considered a final order for the purposes of appeal and will be governed by Title 67, Chapter 52, Idaho Code, Section 67-5270 et seq. (3-29-12)

02. Delegation of Authority. The director of Idaho State Police hereby delegates his authority to the Bureau of Criminal Identification, Idaho State Police the ability to issue final orders on his behalf in instances where the bureau determines an offender’s registration requirement based upon a conviction of a substantially similar or substantially equivalent crime. (3-29-12)

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 83642. (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 83642. (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 <http://www.isp.idaho.gov/race>. (4-11-06)

b. The Central Sex Offender Registry internet website is http://isp.idaho.gov/sor_id/. (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 74, Chapter 1, Idaho Code). (4-11-06)

007. -- 009. (RESERVED)

010. DEFINITIONS.

The terms defined in Section 67-3001, Idaho Code, will have the same meaning in these rules. In addition, the following terms shall have the meanings set forth below: (3-29-12)

- 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. Substantially Equivalent.** “Substantially Equivalent” means any sex offense related crime, regardless of whether a felony or misdemeanor, that consists of similar elements defined in Title 18 of the Idaho Criminal Code. It does not mean exactly the same, nor exactly identical to. (3-25-16)
- 06. Working Days.** “Working Days” means each day except Saturday, Sunday, or a legal state holiday. (3-18-99)

011. ABBREVIATIONS.

There are no abbreviations associated with this chapter of rules. (3-29-12)

012. 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. Forms. The following forms and procedures will be used to provide notice to and collect information from persons required to register as a sex offender pursuant to Title 18, Chapters 83 and 84, Idaho Code. (3-29-12)

a. “Idaho Sex Offender Registry Form.” This three (3) page form notifies an offender of register requirements and collects from an offender information required for registration or any change of address or status, as required by statute. (3-29-12)

b. “Idaho Sex Offender Registry Homeless - Location Verification Form.” This one (1) page form is used during weekly reporting to collect from an offender the information required when the offender does not provide a physical address at the time of registration. (3-29-12)

03. Registration Location. An offender who is required to register either as an adult under Title 18, Chapter 83, Idaho Code, or as a juvenile under Title 18, Chapter 84, Idaho Code, must notify and register at the sheriff’s office in the county where the offender’s primary address is located. (3-29-12)

04. Photographs and Fingerprints. Whenever the Idaho Sex Offender Registry Form is used to register an offender, it will be submitted to the central registry with the offender’s photograph, fingerprints, and palmprints. (3-29-12)

a. An offender’s photograph will be in color. The sheriff will forward a copy of the photograph with tagging information so it may easily be located by registry staff in the department of transportation photo database. Photographs submitted to the central registry will be a copy of the new photographs taken at the time of each registration. From collected registration fees, the sheriff will pay to the state the cost of photography materials lawfully required by a state agency or department. (3-29-12)

b. The sheriff will also submit the required fingerprints on the federal bureau of investigation form FD-249. For each registrant, the sheriff will forward one (1) FBI fingerprint card with each registration Form. (3-29-12)

c. The sheriff will also submit the required palmprints on the federal bureau of investigation form. For each registrant, the sheriff will forward one (1) set of FBI palmprint cards with each registration form, unless a set was previously submitted. (3-29-12)

05. Notification to Local Law Enforcement. Lists of all offenders registered within a county are available on the sex offender registry web site located at http://isp.idaho.gov/sor_id/. The bureau will notify the appropriate county law enforcement agency with jurisdiction any time the bureau becomes aware of a change of status or change of residence of a registered sex offender; and of a registered offender's intent to reside in an agency's jurisdiction. Whenever practical, the bureau will provide notification using the Idaho law enforcement telecommunication system (ILETS). (3-29-12)

06. Notification to Other Jurisdictions. Within one (1) working day of receiving notification that a registered sex offender is moving to another jurisdiction, the bureau will notify the receiving jurisdiction's designated sex offender registration agency of the move by mail or electronic means. (3-29-12)

07. 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 the jurisdiction where the conviction was entered and then 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. (3-29-12)

c. Upon receipt of a duly attested document from a court clerk that a conviction previously reported to the central registry has been reversed by the court of conviction, the bureau will expunge all records concerning the conviction from the central registry, provided that the person has no other conviction requiring registration. (3-29-12)

i. Expungement of a record will not occur in cases where a court has ordered a dismissal for a withheld judgment. (3-29-12)

d. Pursuant to Section 18-8310(5), Idaho Code, if a person is exempted from the registration requirement by court order, the bureau will expunge all records and references concerning the offender from the central registry. (3-29-12)

08. Determination of Substantially Equivalent or Similar Crime. (3-29-12)

a. A person convicted of a sex offense in another jurisdiction and who moves to, works in, or becomes a student in Idaho may be required to register as a sex offender in Idaho pursuant to Title 18, Chapters 83 or 84, Idaho Code. (3-25-16)

b. The bureau shall determine if a person's out-of-jurisdiction conviction is substantially equivalent or similar to an Idaho sex related offense, as defined by Idaho's Criminal Code, for the purposes of requiring a person to register in Idaho. (3-29-12)

c. The bureau may make all substantially equivalent determinations using the following documents: (3-25-16)

i. Police Report (of the incident related to the sex offense); (3-25-16)

ii. Indictment or Information or other lawful charging document; (3-25-16)

- iii. Judgment or Order (of sex-offense conviction); (3-25-16)
- iv. Psychosexual Evaluation Report; and (3-25-16)
- v. Order of Probation. (3-25-16)

d. If a person seeks a substantially equivalent determination by the bureau before moving to, working in, or becoming a student in Idaho, that person shall provide a completed application and attach certified copies of all above-named documents to the bureau. If all documents are not provided as required by this rule, the application and any documents provided shall be returned to the applicant. (3-25-16)

e. The bureau shall issue a substantially equivalent determination within sixty (60) days upon receipt of a completed application and the required documents. (3-25-16)

f. The bureau's determination is a declaratory ruling as defined by Chapter 52, Title 67, Idaho Code. (3-25-16)

g. Judicial review of the bureau's determination shall be made in accordance with Chapter 52, Title 67, Idaho Code. (3-25-16)

013. -- 999. (RESERVED)

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