

## IDAPA 11 - IDAHO STATE POLICE

### 11.11.04 - RULES OF THE IDAHO PEACE OFFICER STANDARDS AND TRAINING COUNCIL FOR CORRECTION OFFICERS AND ADULT PROBATION AND PAROLE OFFICERS

DOCKET NO. 11-1104-1201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 19-5107, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Allows the POST Division Administrator to extend over one year the validity of an applicant's medical examination under extraordinary conditions and for good cause shown. Changes the term "will" and "must" to the more appropriate term "shall." Allows an Idaho POST-certified correction officer or probation & parole officer who transfers to an administrative position with the Idaho Department of Correction to retain their POST certification provided they don't leave employment with IDOC and they attend twenty hours of training per year.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because representatives of the affected parties were involved in the drafting and approval of the rule.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Trish Christy at (208) 884-7253.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 14th day of August, 2012.

William L. Flink, Division Administrator  
Idaho State Police/Peace Officer Standards & Training  
700 S. Stratford Dr.  
Meridian, ID 83642  
Phone: (208) 884-7251  
Fax: (208) 884-7295

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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 11-1104-1201

**039. PHYSICAL -- MEDICAL.**

**01. Requirements.** (4-11-06)

**a.** Hearing. The applicant shall have unaided or aided hearing between zero (0) and thirty (30) decibels for each ear at the frequencies of one thousand (1000) Hz and two thousand (2000) Hz; and unaided or aided hearing between zero (0) and fifty (50) decibels for each ear at the frequency of three thousand (3000) Hz. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of an audiologist or ear, nose, and throat physician that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a correction officer. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

**b.** Vision. The applicant shall have uncorrected vision in each eye of no weaker than twenty/two hundred (20/200) with the strong eye corrected to twenty/thirty (20/30) and the weaker eye corrected to twenty/sixty (20/60). An applicant who wears contact lenses is exempt from the uncorrected vision of twenty/two hundred (20/200), but shall have the strong eye corrected to twenty/thirty (20/30) and the weaker eye corrected to twenty/sixty (20/60). A full eye examination shall be administered by an optometrist or ophthalmologist to any applicant who wears glasses whose uncorrected vision in either eye is twenty/one hundred fifty (20/150) or weaker. Waiver of the above may be considered by the POST Division Administrator if accompanied by the certificate of a vision specialist that the applicant's condition will not jeopardize or impair the applicant's ability to perform the duties of a correction officer. The POST Division Administrator shall have the discretion to refer the application to the POST Council. (4-7-11)

**c.** Disease/Condition. The applicant shall be free from any impediments of the senses of sight, hearing, taste, smell, and touch; physically sound; well developed physically and in possession of his extremities; free from any physical defects, chronic or organic diseases, organic or functional conditions, or emotional or mental instabilities which may tend to impair efficient performance of duty or which might endanger the lives of others or the life of the officer. Waiver of Subsection 039.01.c. may be considered by the Council upon the applicant's demonstration that the deficiency does not jeopardize or impair his ability to perform the duties of a correction officer. (4-7-11)

**d.** Physical Readiness Test. The applicant shall pass the POST Physical Readiness Test for Correction Officers. (4-7-11)

**02. Procedures.** (4-11-06)

**a.** A POST Council-approved medical history form shall be supplied by each applicant to the examining physician. The medical history shall include information on past and present diseases, injuries and operations. (4-7-11)

**b.** A medical examination shall be administered by a licensed physician or his designee to determine if the applicant is free from any physical, emotional, or mental condition which might adversely affect the applicant's ability to perform the duties of a correction officer. The physician shall record his findings on the appropriate form or letter and shall note thereon, for evaluation by the appointing authority, any past or present physical defects, diseases, injuries, operations or conditions of an abnormal or unusual nature, or indications of mental or emotional instability. A medical examination shall remain valid for one (1) year unless extended by the POST Division Administrator under extraordinary conditions and for good cause shown. (~~4-7-11~~)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**051. LAPSE OF CORRECTION OFFICER CERTIFICATION.**

The certification of any correction officer ~~will~~ shall be considered lapsed if the officer does not serve as a correction officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified correction officer

who remains in an administrative duty assignment with the Idaho Department of Correction shall retain their POST certification provided they do not leave employment with the Idaho Department of Correction and satisfy the continuing training requirement of at least twenty (20) hours per year. The three-year period provided herein shall be tolled during any time period that a correction officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. ~~(3-29-10)~~( )

**01. Three to Five Years.** A correction officer who has been out of full-time correction officer status from three (3) to five (5) years and who wants to reactivate certification ~~must~~ shall meet the following POST requirements: ~~(3-29-10)~~( )

- a. Submit a POST Certification Correction Challenge Packet; (4-11-06)
- b. Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- c. Pass the following tests administered by a POST Training Specialist: (4-11-06)
  - i. The POST correction certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; and (4-11-06)
  - ii. The POST Correction Officer Physical Agility Test; and (4-11-06)
- d. Satisfactorily complete a probationary period of not less than six (6) months. (4-11-06)

**02. Over Five Years.** A correction officer who has been out of full-time correction officer status for over five (5) years ~~must~~ shall attend the POST Basic Correction Academy or a POST-certified private prison contractor's correction officer training program to reactivate certification. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time correction officer status, the officer was engaged in an occupation requiring correction officer training, skill, and experience. This evidence ~~must~~ shall be submitted with a POST Certification Correction Challenge Packet. Upon receiving a waiver, the officer ~~must~~ shall meet the following POST requirements: ~~(3-29-10)~~( )

- a. Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- b. Pass the following tests administered by a POST Training Specialist: (4-11-06)
  - i. The POST correction certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; and (4-11-06)
  - ii. The POST Correction Officer Physical Agility Test; and (4-11-06)
- c. Satisfactorily complete a probationary period of not less than six (6) months. (4-11-06)

**03. Over Eight Years.** A correction officer who has been out of full-time correction officer status for over eight (8) years ~~must~~ shall attend the POST Basic Correction Academy or a POST-certified private prison contractor's correction officer training program to be recertified. No waiver of this requirement ~~will~~ shall be granted by the Council. ~~(4-11-06)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**062. LAPSE OF ADULT PROBATION AND PAROLE OFFICER CERTIFICATION.**  
The certification of any adult probation and parole officer ~~will~~ shall be considered lapsed if the officer does not serve

as an adult probation and parole officer in Idaho for three (3) consecutive years. Provided, however, that an Idaho POST-certified adult probation and parole officer who remains in an administrative duty assignment with the Idaho Department of Correction shall retain their POST certification provided they do not leave employment with the Idaho Department of Correction and satisfy the continuing training requirement of at least twenty (20) hours per year. The three-year period provided herein shall be tolled during any time period that an adult probation and parole officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. ~~(3-29-10)~~( )

**01. Three to Five Years.** An adult probation and parole officer who has been out of full-time adult probation and parole officer status from three (3) to five (5) years and who wants to reactivate certification ~~must~~ shall meet the following POST requirements: ~~(3-29-10)~~( )

- a.** Submit a POST Certification Adult Probation and Parole Challenge Packet; (4-11-06)
- b.** Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- c.** Pass the following tests administered by a POST Training Specialist: (4-11-06)
  - i.** The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; (4-2-08)
  - ii.** The POST Firearms Qualification Course; (4-2-08)
  - iii.** The POST Adult Probation and Parole Officer Physical Agility Test; and (4-11-06)
- d.** Satisfactorily complete a probationary period of not less than six (6) months. (4-11-06)

**02. Over Five Years.** An adult probation and parole officer who has been out of full-time adult probation and parole officer status for over five (5) years ~~must~~ shall attend the POST Basic Adult Probation and Parole Academy to reactivate certification. The Council may waive this requirement on a showing of good cause by the officer supported by clear and convincing evidence that during a substantial part of the time out of full-time adult probation and parole officer status, the officer was engaged in an occupation requiring adult probation and parole officer training, skill, and experience. This evidence ~~must~~ shall be submitted with a POST Certification Adult Probation and Parole Challenge Packet. Upon receiving a waiver, the officer ~~must~~ shall meet the following POST requirements: ~~(3-29-10)~~( )

- a.** Disclose information regarding any decertification investigation or proceeding or the substantial equivalent from any other jurisdiction and the results thereof. (3-29-10)
- b.** Attend and pass Idaho POST-certified courses in Arrest Techniques and Practical Problems; (4-11-06)
- c.** Pass the following tests administered by a POST Training Specialist: (4-11-06)
  - i.** The POST adult probation and parole certification examination approved by the Council, conducted in the manner set forth in Subsection 053.02.b. of these rules; (4-2-08)
  - ii.** The POST Firearms Qualification Course; (4-2-08)
  - iii.** The POST Adult Probation and Parole Officer Physical Agility Test; and (4-11-06)
- d.** Satisfactorily complete a probationary period of not less than six (6) months. (4-11-06)

**03. Over Eight Years.** An adult probation and parole officer who has been out of full-time adult probation and parole officer status for over eight (8) years ~~must~~ shall attend the POST Basic Adult Probation and Parole Academy to be recertified. No waiver of this requirement ~~will~~ shall be granted by the Council. ~~(4-11-06)~~( )