

**TRANSPORTATION COMMITTEE**

**ADMINISTRATIVE RULES REVIEW**

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**2014 Legislative Session**

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## **IDAPA 35 - STATE TAX COMMISSION**

### **35.01.05 - MOTOR FUELS TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0105-1301**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, 63-2427, and 67-5221(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 200 through 210](#).

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Don Williams (208) 334-7855.

DATED this 3rd day of October, 2013.

Don Williams  
Tax Policy Specialist  
Idaho State Tax Commission  
800 Park Blvd., Plaza IV  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7855

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 Sections 67-5221(1), 63-105, and 63-2427, 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 September 18, 2013.

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:

Rules 110, 115, and 290, as stated in the Notice of Intent To Promulgate Rules - Negotiated Rulemaking and published in the May 1, 2013, Administrative Bulletin, are not being promulgated and will remain as codified.

Motor Fuels Tax Rule 105 is being amended consistent with House Bill 20 which allows the Tax Commission to sell gaseous fuel decals. Also, changes to clarify records required for exempt sales at manned and unmanned pumps. This rule will be renumbered Motor Fuel Rule 132.

Motor Fuels Tax Rule 270 is being changed to clarify the records required for taxable and nontaxable use from a single storage tank when using the proration percentages provided in subsection (6)(a) or alternate percentages. The proration percentage provided will be reviewed.

Motor Fuels Tax Rule 292 is being reviewed to determine if changes are required to the standard allowances for special fuels power take off (PTO). The review is required due to increased efficiency of special fuels engines.

Motor Fuels Tax Rule 410 is changed to cite the external source according to the Administrative Procedures Act.

Motor Fuels Tax Rule 510 is changed to clarify when motor oils, other than new motor oils, are received in the state and subject to the transfer fee.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**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(1), Idaho Code, negotiated rulemaking was conducted on all rules except Motor Fuel Tax Rule 410. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 1, 2013 Idaho Administrative Bulletin, [Vol. 13-5, pages 101 and 102](#).

**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:

Section 63-2442A, Idaho Code, adopts the IFTA Agreement. Motor Fuel Tax Rule 410 previously incorporated the governing documents of the International Fuel Tax Agreement, but did not follow the external source citation requirements of the Administrative Procedures Act.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Don Williams at (208) 334-7855.

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 September 25, 2013.

DATED this 30th day of August 2013.

### [LSO Rules Analysis Memo](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-1301**

011. -- ~~1049~~. (RESERVED)

*[Section 105 is being moved and renumbered to Section 132]*

~~106. — 109.~~ (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**10532. LICENSED GASEOUS FUELS DISTRIBUTOR'S REPORTS (RULE ~~10532~~).**

**01. Monthly Reports.** Every licensed gaseous fuels distributor (**distributor**) shall file with the State Tax Commission a monthly tax report and supporting detailed schedules on forms prescribed by the State Tax Commission. Such reports shall contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report shall include the following information together with such other information as the State Tax Commission may require: (7-1-99)( )

**a.** The total taxable gallons of gaseous fuels delivered into the supply tank of registered motor vehicles; (3-30-07)

**b.** The taxable gallons after deduction of a two percent (2%) allowance. See Rule 140 of these rules; (4-5-00)

**c.** The tax computation; (7-1-99)

**d.** The bad debt amount, if any. (This credit or debit only applies to debt from fuels taxes that have been written off for income tax purposes in the distributor's records before December 1, 2007.) See Rule 140 of these rules; (4-2-08)

**e.** The gaseous fuels permit fees (Attach to the report the yellow copy of the receipt for each gaseous fuels permit sold during that month); and (4-5-00)

**f.** The net tax due; (4-5-00)

**g.** A receipt schedule reporting the total number of taxable gallons of gaseous fuels sold must be attached to the distributor's report. (4-5-00)

**02. Report Due and Payment Required.** The report shall be due on or before the last day of the month following the month to which the report relates together with the payment of any tax, annual gaseous fuels permit fees, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars (\$100,000) or more. (7-1-99)

**03. Failure to Pay Tax and Permit Fees.** Any ~~gaseous fuels~~ distributor required to pay the tax or permit fee imposed by Section 63-2424, Idaho Code, who fails to pay such tax or permit fee shall be liable to the State Tax Commission for the amount of tax or permit fee not paid plus any applicable penalty or interest. The State Tax Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. (4-2-08)( )

**04. Receipt of Gaseous Fuels.** The special fuels tax is not imposed on gaseous fuels when the fuels are received in Idaho. Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the main supply tank of a registered, or required to be registered, motor vehicle. (4-5-00)( )

~~**05. Gaseous Fuels.** Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the supply tank of a registered, or required to be registered, motor vehicle.~~ (3-30-07)

**065. Annual Fees for Gaseous Fuels Permits.** Persons operating vehicles powered by gaseous fuels may pay an annual fee for a gaseous fuels permit instead of paying the special fuel taxes at the time propane or natural gas is purchased. ~~Gaseous fuels d~~Distributors who sell these permits shall issue a permit that will be in the form of a decal to be displayed in a conspicuous spot visible from the outside of the permitted vehicle. The fees for gaseous fuels permits are based on the gross vehicle weight of the vehicles and are set by Rule 115 of these rules as is mandated by Section 63-2424(2), Idaho Code. The gaseous fuels permit is valid for the annual permit period of July 1 through June 30 of the following year. The annual permit period displayed on the decal will be the year in which the decal expires. (4-5-00)( )

**076. Documentation of ~~Untaxed~~ Exempt Sales of Gaseous Fuels Delivered into Motor Vehicles.** Gaseous fuels delivered into the fuel supply tank of a registered, or required to be registered, motor vehicle are taxable except for: (3-30-07)( )

**a.** Government. Gaseous fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all of its political subdivisions, are exempt from the special fuels tax on gaseous fuels. In this case, the ~~licensed~~ distributor must record ~~on the document of sale,~~ the name of the governmental entity, the license or identification number, and the type of vehicle on the sales document. (7-1-99)( )

**b.** Gaseous Fuels Decal. Gaseous fuels dispensed into the fuel supply tank of a motor vehicle displaying a valid Gaseous Fuels Decal are exempt from tax. For the exempt status to be valid, the ~~distributor must record the~~ purchaser's name, address, vehicle license number, and the words "gaseous fuels decal" ~~must be recorded~~ or the decal number on the sales document. (4-5-00)( )

**c.** Manned and Unmanned Stations. A manned station must have a representative at the point of sale to visually inspect the vehicle, including the decal when required, in order to make exempt sales of gaseous fuels. Exempt sales of gaseous fuel from an unmanned station are allowed when each sale is recorded by other visual means. When a distributor cannot meet the previous two requirements, it must request approval from the State Tax Commission before making exempt sales of gaseous fuels. ( )

**087. Completion of Gaseous Fuels Receipt Book(s).** The following information is required to be recorded by a gaseous fuels distributor in his gaseous fuels receipt book for each gaseous fuels permit (decal) sold: (4-5-00)

- a.** The date; (4-5-00)
- b.** The amount; (4-5-00)
- c.** One (1) of the following weight classes: (4-5-00)
  - i.** Zero - eight thousand pounds (0 - 8,000 lbs.); or (4-5-00)
  - ii.** Eight thousand one - sixteen thousand pounds (8,001 - 16,000 lbs.); or (4-5-00)

- iii. Sixteen thousand one - twenty-six thousand pounds (16,001 - 26,000 lbs.); or (4-5-00)
- iv. Twenty-six thousand one pounds (26,001 lbs.) and over. (4-5-00)
- d. The current month; (4-5-00)
- e. The annual permit period; (4-5-00)
- f. The customer's name and vehicle license plate number; (4-5-00)
- g. The name and license number of the gaseous fuels distributor who is selling the permit; and (4-5-00)
- h. The signature of the salesperson. (4-5-00)

**098. Annual Reconciliation of Gaseous Fuels Receipt Books and Decals.** A distributor who sells gaseous fuels permits must reconcile its account with the State Tax Commission for the annual permit period ending June 30, by July 31, of the same year. Distributors may begin ordering decals and receipt books in May for the upcoming annual permit period. The following is required to be received by the State Tax Commission for reconciliation: (4-5-00)

- a. All unused/unsold gaseous fuels decals; (4-5-00)
- b. All voided receipts (white and yellow copies) not previously submitted with the distributor report; (4-5-00)
- c. All receipt books (pink copies must be intact); and (4-5-00)
- d. A completed gaseous fuels reconciliation form which includes: (4-5-00)
  - i. The number of decals ordered for the annual permit period; (4-5-00)
  - ii. The number of decals sold for the annual permit period; (4-5-00)
  - iii. The balance of decals at the end of the annual permit period; and (4-5-00)
  - iv. The number, if any, of decals lost or destroyed. If decals are lost or destroyed, a statement describing the circumstances of the loss or destruction must accompany the distributor's gaseous fuels permit reconciliation. (4-5-00)

**109. Assessment for Unaccounted for Decals.** ~~Two hundred and eight dollars (\$208)~~ An amount equal to the annual fee of the highest weight class will be assessed for each decal not accounted for during the annual reconciliation, unless there is clear and convincing evidence the decal was destroyed or mutilated. (4-5-00)( )

**10. Sales of Gaseous Fuels Decals by The State Tax Commission. The State Tax**

Commission may act as a seller of gaseous fuels decals. The State Tax Commission will maintain records and report sales of decals in a manner sufficient to reconcile its accounts. ( )

~~1323.~~ -- 134. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**270. REFUND CLAIMS -- DOCUMENTATION (RULE 270).**

**01. Refunds to Consumers.** Any buyer of motor fuels, claiming a refund under Chapter 24, Title 63, Idaho Code, must retain in his records the original invoices from the seller, showing the number of gallons purchased. All invoices, except those prepared by a computer or similar machine, shall be prepared in ink or a double-faced carbon must be used between the original and first duplicate. Only one (1) original invoice may be issued for each delivery. Each invoice must contain or show the following, in addition to the requirements outlined above:

- (4-11-06)
- a. A preprinted identification number; (4-11-06)
- b. Name and address of seller; (7-1-98)
- c. Name of purchaser; (7-1-98)
- d. Date of delivery; (7-1-98)
- e. Type of motor fuel; (7-1-98)
- f. Gallons invoiced; (7-1-98)
- g. Price per gallon; (7-1-98)
- h. At least one (1) of the following to establish that tax has been charged: (7-1-98)
  - i. The amount of Idaho state fuels tax; (7-1-98)
  - ii. The rate of Idaho state fuels tax; or (7-1-98)
  - iii. A statement that the Idaho state fuels tax is included in the price. (7-1-98)

**02. Indian-Owned Retail Outlet.** Motor fuels purchased after December 1, 2007, from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of sections 63-2444 or 67-4002, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules. (4-2-08)



**03. Corrected Invoices.** No altered or corrected invoice will be accepted for refund purposes. When errors occur, the original invoice must not be altered or corrected, but must be voided and a new original invoice issued. All altered or corrected invoices must be marked as voided and ~~retained by the seller for at least three (3) years from the date issued.~~ (7-1-98)( )

**04. Invoice Retention.** ~~The~~ **Original, altered, or corrected** invoices required by ~~Subsection 270.01 of~~ this rule shall be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the State Tax Commission or by voluntary action of the taxpayer. (7-1-98)( )

**05. Refund Documents.** ~~For refund claims under Section 63-2410(5)(c), Idaho Code,~~ **An** original invoice includes any duplicate of the original that is created with the same impression as the original, for example, with carbon paper or NCR paper, if the original is retained by the seller and only the duplicate is provided to the customer. An original invoice does not include any document produced by a copy machine or similar device capable of producing a copy of an existing document. (7-1-98)( )

**06. Records Required for Motor Fuels Tax Refunds.** Each claimant shall maintain records that are sufficient to prove the accuracy of the fuels tax refund claim. Such records shall include all motor fuels receipts, the gallons of tax-paid fuel used in each type of equipment, both taxable and nontaxable, and other uses. The records must show the date of receipt or disbursements and identify the equipment into which the tax-paid fuel is dispensed. Failure of the claimant to maintain the required records and to provide them for examination is a waiver of all rights to the refund. The following rules shall govern records maintained to support claims for refund. (4-11-06)

**a. Use of Fuel from a Single Storage Tank.** Idaho tax-paid fuel ~~(other than fuel purchased by persons who operate motor vehicles that are licensed under IFTA or by persons who operate non-IFTA motor vehicles who claim refunds for nontaxable uses of motor fuels in motor vehicles granted in Rule 290 and Rule 292 of these rules)~~ purchased and delivered into a single bulk storage tank and withdrawn for both **nontaxable** and **non**taxable uses must be accounted for using either the proration provided by this paragraph or by records showing actual taxable and nontaxable usage. **No refund is allowed under this paragraph for fuel purchased for use in: motor vehicles licensed under the authority of the International Fuel Tax Agreement (IFTA); non-IFTA motor vehicles for which a refund for nontaxable use is granted using either Rule 290 or 292 of these rules; or, for diesel when the claimant has both undyed (tax paid) and dyed (untaxed) diesel tanks. If the proration is used, sixty percent (60%) of all taxed diesel fuel or twenty five percent (25%) of all taxed gasoline delivered into bulk storage shall be presumed to be for exempt uses unless an alternate percentage is requested by the taxpayer and authorized by Taxpayers may claim a refund using a proration percentage instead of claiming actual use.** ~~The State Tax Commission must authorize a taxpayer's proration percentage before he may receive a refund using any percentage when filing a refund claim.~~ The **authorization** request shall itemize **anticipated** all taxable and nontaxable uses by **vehicle and** type of equipment based on previously experienced **or anticipated** use. The State Tax Commission will refund **fuel** taxes **paid included on Idaho tax-paid fuel for nontaxable use based on the an authorized** percentage ~~of taxed fuel presumed to be exempt~~ **which represents the claimant's reasonable nontaxable use.** ~~If refunds are claimed based on records of actual use, the records must be made available upon request. In either case, invoices showing the fuel purchases on which tax was paid must be retained to~~

~~support each refund claim. The proration or another percentage granted by this paragraph cannot be used if you have separate storage tanks for undyed diesel and dyed diesel. When using an authorized percentage, certain records must be maintained and made available upon request. Acceptable records of refunds based on an authorized percentage include, but are not limited to: fuel purchase invoices and equipment lists. Equipment lists must be supported by documentation. Acceptable equipment list documentation includes, but is not limited to: ( )~~

- ~~i. Equipment purchase; ( )~~
- ~~ii. Sales or rental receipts; and ( )~~
- ~~iii. Depreciation schedules. (3-30-07)( )~~

**b.** Use of Fuel from Multiple Storage Tanks. When ~~a claimant maintains~~ separate bulk storage tanks ~~are maintained~~ of Idaho tax-paid fuel for ~~both exempt and~~ taxable and nontaxable uses, the ~~claimant must identify which storage tank is for taxable and which is for nontaxable use. The~~ seller must mark the invoices at the time of delivery, identifying the storage tanks into which the fuel was delivered. ~~Only Idaho tax-paid fuel placed in the nontaxable tank is refundable.~~ Detailed withdrawal records will only be required if fuel ~~is purchased by persons who operate from these tanks are used in~~ motor vehicles that are licensed under IFTA or ~~by persons who operate in~~ non-IFTA motor vehicles ~~who claim refunds~~ for ~~which refunds are granted for~~ nontaxable uses of motor fuels in motor vehicles granted ~~in using either~~ Rule 290 ~~and or~~ Rule 292 of these rules. ~~No refund may be claimed under this paragraph for diesel when the claimant has both undyed (tax-paid) and dyed (untaxed) diesel tanks.~~ All fuel invoices must be retained as required by ~~Subsection 270.03 of~~ this rule. ~~Exempt fuel may not be used in motor vehicles registered or required to be registered.~~ (3-30-07)( )

**c.** Use of Fuel for Other Than Bulk Storage. ~~Idaho tax-paid F~~fuel dispensed into small containers for use in, or into the supply tank of, stationary engines, equipment, commercial motorboats, or vehicles other than registered motor vehicles, must be identified on the purchase invoice. No other records will be required. (3-30-07)( )

**07. Untaxed Motor Fuel.** Under the provisions of Section 63-2421, Idaho Code, ~~untaxed motor fuel may not be used in motor vehicles registered or required to be registered unless authorized elsewhere in these rules. Under the audit and enforcement provisions of Sections 63-2410 and 63-2434, Idaho Code, all fuel tax refund claims are subject to audit by the State Tax Commission and no part of these rules may be construed to imply that an audit may not be performed. Tax-paid motor fuel is no longer exempt from taxes imposed by Chapter 36, Title 63, when the motor fuel tax is refunded to the consumer according to Rule 171. ( )~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**292. CALCULATION OF REFUNDS FOR NONTAXABLE USES OF MOTOR FUELS IN MOTOR VEHICLES. (RULE 292).**

**01. Fuel Records Required for Refund Claims.** Special fuels users may be eligible for a fuels tax refund of tax-paid special fuels if their motor vehicles have accrued nontaxable miles or have power take-off (PTO) equipment. Records must be kept as described in Subsection 290.01 of these rules. (4-5-00)

**02. Nontaxable Miles Defined.** Nontaxable miles are miles driven on roads which are not open to the public, not maintained by a governmental entity, located on private property that are maintained by the property owner, or defined in Subsection 292.03 of this rule. Miles driven on a construction site would also be considered nontaxable miles and may be eligible for a special fuels tax refund. See Rule 171 of these rules regarding application of Idaho Sales and Use Taxes. (4-6-05)

**03. Additional Nontaxable Roadways.** Roadways defined in Section 63-2401, Idaho Code, include those constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. The special fuels user must maintain records documenting nontaxable miles traveled on roadways that qualify for exclusion under this provision, unless using the “standard miles per gallon (MPG)” for its industry found in Subsection 290.02 of these rules. When special fuels users compute their special fuels tax liability or refund, they may exclude from total taxable miles traveled in Idaho the miles traveled on these roadways if the cost of maintaining the roadway pursuant to a contract or permit is primarily borne by them or if the special fuel user is a subcontractor of a prime contractor required by contract to bear the primary cost of maintaining the roadway. (~~3-15-02~~)( )

**04. Calculation.** Determine the number of taxable miles driven in Idaho following the procedure established in Subsection 290.01 of these rules. Divide this number by the actual MPG, the presumed MPG established by Subsection 290.01 of these rules, or the industry standard MPG provided by Subsection 290.02 of these rules. Subtract this number of gallons from the total Idaho tax-paid gallons purchased for the subject vehicles. Motor fuels purchased after December 1, 2007, from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of Sections 63-2444 or 67-4002, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules. (4-2-08)

**05. Power Take-Off (PTO) and Auxiliary Engine Allowances (Allowances).** ~~Power take-off (PTO)~~ allowances are available for special fuels powered vehicles. Auxiliary engine allowances are available for both special fuels and gasoline-powered vehicles. (~~4-5-00~~)( )

**a. Standard Allowances for Special Fuels.** Nontaxable gallons of special fuels may be claimed when special fuels are used for purposes other than to operate, propel, or idle, as defined in Section 63-2401, Idaho Code, a motor vehicle and the fuel is drawn from the main supply tank of the motor vehicle. Examples of uses that qualify for allowances are turning a vehicle-mounted cement mixer or off-loading product. (4-6-05)

**b. Standard Allowances for Gasoline.** Nontaxable gallons of gasoline may be claimed

when gasoline is used in an auxiliary engine and the fuel is drawn from the main supply tank of the registered motor vehicle. No claim for gasoline is allowed when gasoline is used by the registered motor vehicle's main engine even to operate the motor vehicle's PTO unit. (3-30-07)

**c.** Rates for Standard Allowances. The number of gallons of fuel actually delivered into the fuel tank of the vehicle may be reduced by the following allowances: (4-5-00)

**i.** Allowances based on unit quantities:

Allowance Type	Allowance Rates	x	Unit Quantities
Gasoline/fuel oil	0.00015 gallons	x	Gallons pumped
Bulk cement	0.1858 gallons	x	Tons pumped
Refrigeration unit/reefer	0.75 gallons	x	Hours unit operated
Tree length timber/logs	0.0503 gallons	x	Tons Hauled
Tree length timber/logs	3.46 gallons	x	Hours unit operated
Carpet cleaning	0.75 gallons	x	Hours unit operated
Concrete Pumping	0.142857 gallons	x	Yards pumped

(4-11-06)

**ii.** Allowances based on percentages:

Allowance Type	Percentage Per Gallon	x	Gallons Consumed
Concrete mixing	30%	x	Gallons consumed
Garbage compaction	25%	x	Gallons consumed

(3-15-02)

**06. Nonstandard Allowances.** A request for an allowance not listed in Subsection 292.05 of this rule, or greater than those listed must be submitted by the taxpayer to the State Tax Commission for approval before being used. Taxpayers must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance. ~~*Taxpayers must send requests for approval to:*~~

~~*FUELS TAX POLICY  
IDAHO STATE TAX COMMISSION  
P. O. BOX 36  
BOISE, ID 83722-0410*~~

The ~~*Idaho*~~ State Tax Commission may request additional information or documentation as needed in order to make a determination on the request. ~~*(4-6-05)*~~ ( )

**07. Nontaxable Gallons of Fuel Claimed by Non-IFTA Licensees.** The nontaxable

gallons of fuel claimed by non-International Fuel Tax Agreement (IFTA) licensees may be the allowance gallons listed in Subsections 292.05 and 292.06 of this rule and/or the gallons calculated under Subsection 292.04 of this rule. Only actual MPGs, computed by adjusting total fuel as defined in Subsection 290.01 of these rules by the allowance gallons, may be used to calculate a fuels tax refund based on both nontaxable miles and allowances. Fuels tax refunds based solely on an allowance may be calculated without regard to mileage and fuel consumption ~~(MPG)~~ information. (4-11-06)( )

**08. IFTA Licensees.** An IFTA licensee may ~~Qualifying for Power Take-Off standard or nonstandard~~ ~~(PTO)~~ and auxiliary engine allowances ~~(Allowances)~~. ~~Allowances listed in Subsection 292.05 of this rule or established as provided in Subsection 292.06 of this rule may be granted for IFTA licensees~~ authorized by request, by recomputing the total gallons of fuel consumed in all jurisdictions. IFTA licensees claiming refunds of Idaho fuels tax resulting from the allowances established in Subsections 292.05 and 292.06 of this rule, must file the claim on an Idaho Fuels Use Report Form 75 with the relevant supplemental worksheet. (4-6-05)( )

**a.** The IFTA licensee must recompute the total taxable fuel for Idaho by deducting the gallons determined by the allowances in all jurisdictions from the total number of gallons of fleet fuel consumed that was reported on the IFTA return. Using the new net gallons consumed, the IFTA licensee will recompute the new fleet miles per gallon MPG. ~~Apply~~ ~~†~~ The new fleet miles per gallon MPG is applied to the reported Idaho taxable miles to calculate the corrected Idaho taxable gallons. To calculate the Idaho nontaxable gallons available for refund, the IFTA licensee must subtract the recomputed taxable gallons for Idaho from the original taxable gallons reported for Idaho. This nontaxable gallon figure is then entered on the line labeled nontaxable gallons on the Form 75. (4-5-00)( )

**b.** ~~Additionally, a~~ copy of the IFTA tax return for the period subject to the refund claim and a statement or worksheet showing how the allowance was calculated must be included as an attachment to the Form 75. All refund claims are subject to review and audit, therefore, adequate documentation must be retained by the licensee. (4-5-00)( )

**c.** IFTA licensees that must used an assumed actual MPG when preparing their original IFTA return may not to claim any additional refund. (4-5-00)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**410. ADOPTION OF INTERNATIONAL FUEL TAX AGREEMENT (RULE 410).**

Under the authority of Sections 63-2434, 63-3039, 67-5203, and 63-2442A, Idaho Code, the State Tax Commission and motor fuels users licensed or required to be licensed pursuant to the International Fuel Tax Agreement (IFTA), are governed by the provisions of the International Fuel Tax IFTA Articles of Agreement; (Agreement), Article I, Section R120 Governing Documents (revised January 1, 2013). This section is incorporated by reference, including † ~~The IFTA Agreement, Procedures Manual and Audit Manuals in effect on the effective date of this rule and as subsequently amended~~ are equally binding on all IFTA members jurisdictions and licensees. Motor fuels users who operate under the International Fuel Tax Agreement also an

Idaho IFTA license must comply with all applicable rules contained in these rules. ~~(7-1-99)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**510. APPLICATION AND REPORTING OF THE PETROLEUM TRANSFER FEE (RULE 510).**

**01. Application.** (6-23-94)

**a.** The Petroleum Transfer Fee applies to the first receipt of any petroleum or petroleum product within this state. The amount of the fee is one cent (\$0.01) for each gallon of petroleum or petroleum product received. The fee shall be paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid on the same petroleum or petroleum product. Only licensed Idaho fuel distributors may receive refunds or credits of the transfer fee. The refunds or credits must be claimed on the distributor report required in Section 63-2406, Idaho Code, according to Rule 180. ~~(7-1-99)~~( )

**b.** The legal incidence of the fee is on the first distributor which receives any petroleum or petroleum product. This distributor is required to report ~~#~~ and pay the transfer fee to the State Tax Commission. The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. ~~(6-23-94)~~( )

**02. Receipt of Petroleum Products.** Receipt of petroleum or petroleum products shall be determined according to Section 63-2403, Idaho Code. Receipt is determined by the movement of petroleum or petroleum products from permanent storage facility (terminal) or crossing the border of this state. Storage of petroleum or petroleum products is incidental to the movement of the petroleum or petroleum products. ~~(7-1-99)~~( )

**03. Exemption to Application of the Transfer Fee.** The Petroleum Transfer Fee does not apply to petroleum or petroleum products that are: (6-23-94)

**a.** Returned to the refinery or pipeline terminal. (6-23-94)

**b.** Exported from this state. No fuel will be considered exported, unless the distributor can prove the export by documentation required by Rule 140 of these rules. (7-1-99)

**c.** Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor to a railroad or railroad corporation or any employee of them is subject to the Petroleum Transfer Fee unless the petroleum or petroleum products are “received” by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad corporation. (7-1-99)

**d.** Received in retail containers of fifty-five (55) gallons or less or petroleum

products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. (6-23-94)

**04. Casualty Loss and ~~Shrinkage~~ Two Percent (2%) Allowance Not Deductible.**

All petroleum and petroleum products received in this state that are not within an exemption or exclusion listed in this rule are subject to the fee, without further deductions or discounts despite the product's use. ~~The d~~Deductions allowed to motor fuel distributors in Section 63-2407, Idaho Code, for ~~fuel lost by fire or similar~~ casualty, ~~see Section 63-2407(3), Idaho Code~~; loss and the two percent (2%) ~~discount for loss by shrinkage or evaporation, see Section 63-2407(4), Idaho Code~~; allowance are not deductions applicable to the Petroleum Transfer Fee. (4-2-08)( )

**05. Petroleum and Petroleum Products.** The products subject to the Petroleum Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14 7/10) psi. These products are all products refined from crude oil including but not limited to motor gasoline, alcohol blended fuels, such as E-10 and E-85, including the alcohol content of blended fuel, diesel fuel (#1 - #6), biodiesel blended fuels, such as B-20, including the biodiesel content of the blended fuel, heating oil, aviation fuel, naphtha, naphtha-type jet fuel, kerosene-type jet fuel (JP#1 - #8), motor oil, brake fluid, tractor fuel, distillate fuel oil, stove fuel, unfinished oils, turpentine substitutes, lamp fuel, diesel oils (#1 - #6), engine oils, railroad oils, kerosene, commercial solvents, lubricating oils, fuel oil, boiler fuel, refinery fuel, industrial fuel, bunker fuel, residual fuel oil, road oils, and transmission fluids. Ethanol (E00), natural gasoline, and biodiesel (B00) are also defined as petroleum and petroleum products that are subject to the Petroleum Transfer Fee. (4-7-11)

**06. Exclusion of Petroleum and Petroleum Products on Which The Fee Has Previously Been Paid.** Used oil as defined by 40 CFR Part 279 (July 1, 2000) is presumed to be comprised of petroleum or petroleum products on which the transfer fee has previously been paid when generated in Idaho. The distributor shall not report used oil generated in Idaho on the distributor report nor shall a distributor pay or receive a credit of the transfer fee on used oil generated in Idaho. When used oil is not generated in Idaho it is presumed to be subject to the transfer fee. The distributor must report and pay the transfer fee unless an exemption or exclusion applies. ( )

**067. Licensed Distributors and Limited Licenses.** Any person holding a distributor's license issued by the State Tax Commission under Section 63-2427A, Idaho Code, is also licensed for the Petroleum Transfer Fee. No additional license is required. Any person who receives any petroleum or petroleum product in this state, but who is not a licensed distributor nor required to obtain a license under Section 63-2427A, Idaho Code, shall apply to the State Tax Commission for a limited license. The limited license is only for reporting the Petroleum Transfer Fee and is not a license for any purpose under Chapter 24, Title 63, Idaho Code. (7-1-99)

**078. Reporting Requirements.** (6-23-94)

**a.** Distributors licensed under Section 63-2427A, Idaho Code, shall report and pay the Petroleum Transfer Fee with the distributor's report required by Section 63-2406, Idaho Code. For fuel subject to the taxes imposed by Sections 63-2402 and 63-2408, Idaho Code, the Petroleum Transfer Fee shall be included in the report in which the distributor is required to report

the tax on the same fuel. (5-3-03)

**b.** Persons holding a limited license shall file a monthly report with the State Tax Commission on forms prescribed by the State Tax Commission on or before the last day of the month following the month to which the report relates. (7-1-99)

**c.** The provisions of Rule 130 of these rules, apply to reports of the Petroleum Transfer Fee. (7-1-99)

**~~089~~. Payment.** (6-23-94)

**a.** Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (6-23-94)

**b.** Any partial payment or collection of amounts shown due or required to be shown due on a distributor's report, plus any additional amount of penalty or interest due, shall be allocated between the motor fuels tax and the Petroleum Transfer Fee in the same proportion that the liability for the tax and the fee bear to the total liability. (6-23-94)

**~~09~~10. Incorporation of Other Relevant Rules.** Section 41-4909, Idaho Code, incorporated by reference various provisions of the Income Tax Act, Chapter 30, Title 63, Idaho Code, to apply to the administration and enforcement of the Petroleum Transfer Fee. For applying and construing those sections as they apply to the Petroleum Transfer Fee, the Administration and Enforcement Rules relating to those sections of the Income Tax Act are adopted as part of these rules, as if set out in full. In addition, Administration and Enforcement Rule 110, (IDAPA 35.02.01.110) relating to requests for declaratory rulings, is adopted as part of these rules, as if set out in full. (4-6-05)



## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.02.60 - RULES GOVERNING LICENSE PLATE PROVISIONS

DOCKET NO. 39-0260-1301

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 49-201, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Amend administrative rule to implement Senate Bill 1243, 2012 and House Bill 169, 2013, establishing restrictions and guidelines for the introduction and approval of new special plates. Rule changes to implement Senate Bill 1243, 2012, were rejected by the 2013 Legislature. House Bill 169 was passed this session that amends how special plates can be introduced, to also allow such special plate programs to be approved through the Legislature any that were passed but failed to follow through and meet the qualifications.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 498 through 502](#).

**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: There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Chris Fisher, Program Specialist, 334-8679.

DATED this 25th day of November, 2013.

Lori Garza, Program Specialist  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State Street

PO Box 7129, Boise ID 83707-1129  
phone - 208-334-8810 / fax - 332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

**THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2013**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 49-201, 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 16, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making: Amend administrative rule to implement Senate Bill 1243 (2012) and House Bill 169 (2013) that establish restrictions and guidelines for the introduction and approval of new special plates. Rule changes to implement SB1243 were rejected by the 2013 Legislature. HB 169 was passed in the 2013 session and amends how special plates can be introduced, to also allow such special plate programs to be approved through the Legislature any that were passed but failed to follow through and meet the qualifications.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This is a rule update based on changes to statute in House Bill 169 (2013). The rule change incorporates the language to clarify that the legislation regarding specialty license plates may be approved by either the Department and passed on to the Legislature on behalf of the program sponsor, or can be passed by the Legislature. Either way, minimum requirements must be met in accordance with both House Bill 169 (2013) and Senate Bill 1243 (2012). The changes in the rule will reflect the changes both bills require. It also contains slight changes to the text regarding Temporary Proof of Registration and further tightens personalized license plate messages to prohibit gang related or criminal affiliations, and that the Department may utilize the expertise of law enforcement.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**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: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is an update based on changes to statute in House Bill 169, 2013. As such, the rule changes do not lend themselves to negotiation.

**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 temporary and proposed rule, contact Chris Fisher, Program Specialist, 334-8679.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 19th day of August, 2013.

### LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0260-1301

**012. TEMPORARY PROOF OF REGISTRATION FOR NEW, REPLACEMENT, OR REISSUED LICENSE PLATES.**

**01. Temporary Proof of Registration Document.** Upon receipt of payment for required registration and program fees, ~~a forty-five (45) day temporary~~ proof of registration receipt document may be issued, indicating "license plates on order." This option will be used whenever license plates are required to be manufactured after the registration transaction has been completed. The ~~temporary proof of registration~~ receipt document shall provide proof that the vehicle has been registered and fees have been paid, and the vehicle may be operated until new plates have been received by the registrant. At the discretion of the Department, more than one (1) ~~forty-five (45) day temporary~~ proof of registration may be issued, if needed, in order to manufacture license plates. (4-2-08)(    )

**02. Placement of Temporary Proof of Registration Document.** The ~~forty-five (45) day temporary~~ proof of registration receipt document shall be displayed in the rear window of the

vehicle for which it is issued. When issued to a convertible, motorcycle, or other vehicle in which it is not possible to display in the rear window, the temporary proof of registration must be conspicuously displayed where the license plate number and expiration date of the permit newly issued plate may be easily read, and where it is protected from exposure to weather conditions, which would render it illegible. (4-2-08)( )

**03. Issuance of Manually Completed Temporary Registrations When Automated System is Unavailable.** Upon receipt of payment for required registration and program fees, the county may issue a manual temporary registration for thirty (30) days, through use of a temporary form provided by the Department, in the event the automated system is unavailable. When the system resumes normal operation, the county office shall enter such registration information, and produce the registration form and validation decals and mail to the registered applicant. The manual temporary registration form shall be displayed in the rear window of the vehicle for which it is issued. When issued to a convertible, motorcycle, or other vehicle in which it is not possible to display in the rear window, the temporary registration must be conspicuously displayed where the number and expiration date of the permit may be easily read, and where it is protected from exposure to weather conditions, which would render it illegible. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**155. PROVISIONS FOR SPECIAL LICENSE PLATE PROGRAM PREQUALIFICATION AND APPLICATION PROCEDURES.**

**01. Special License Plate Prequalification.** Anyone desiring legislation to establish a Special License Plate Program may make application to the Department on a Special Plate Program application form designed and provided by the Department. If all the prequalification requirements are met by the submission of other documentation, this will also be acceptable. A Special Plate Program Development Guide will also be provided to each applicant, detailing the procedures for the prequalification and application and providing information regarding the steps required to successfully accomplish a special plate program from prequalification through passage of the legislation, statutory requirements and standards for the plate color and license plate design. ( )

**02. Special License Plate Approved by the Legislature.** If a special license plate program is approved by the Idaho legislature, prior to production and sale of the special license plates, the sponsor shall be meet the requirements outlined in Subsection 155.03 of this rule. ( )

**03. Special Plate Requirements:** ( )

**a.** The individual responsible for representing the agency requesting the prequalification/application procedure will complete and sign a Special Plate Program application form that will contain a declaration of the responsible individual for certifying compliance with the requirements to the Department. ( )

**b.** Responsible individual representing the agency will submit a financial plan

detailing the use for the proceeds from the special plate sales. ( )

**c.** For non-profit agencies, the responsible individual will provide evidence that the applicant has had 501 (c) Federal Income Tax status for at least two (2) years. ( )

**04. Special License Plate Program Application Approval:** ( )

**a.** Upon approval of application by Department, applicant will, by September 1, deposit programming and administration fees determined by an estimate of projected programming hours required. One thousand dollars (\$1,000) of this fee will not be refundable. ( )

**b.** Applicant will complete and submit a list of two hundred fifty (250) applicants, currently registered in Idaho, who intend to purchase the Specialty License Plates when available. The form may be delivered to the Department by mail or electronic means such as e-mail or facsimile. ( )

**05. Submission to the Legislature.** ( )

**a.** For those desiring legislation, when all requirements have been met, the Department will forward the completed application to the chairmen of the Transportation and Defense Committees of the Senate and the House of Representatives for consideration in the next Legislative Session. This submission will be on a form developed by the Department or other documentation that meets all the requirements listed in this rule. ( )

**b.** For those Special License Plate Programs with enacting legislation that fail to meet the requirements of this Section, the Department shall report such finding to the chairmen of the Transportation and Defense Committees of the Idaho State Senate and the House of Representatives, and shall not proceed with production and sale of the special plates. ( )

**06. Annual Report.** An annual report form, designed and provided by the Department, will be made available to special license plate sponsors. The report will require an accounting of revenues and expenditures associated with the funds collected for the special license plate program. The report will be completed and submitted to the Department by January 1 so that by January 15 of each year the Department has the necessary data compiled and the required information forwarded to the chairmen of the Transportation and Defense Committees of the Idaho State Senate and the House of Representatives. If the agency fails to provide the required report, the Department will suspend special license plate sales for that program until the accounting is provided. Military License Plate programs will not be included in this requirement. ( )

**07. Appeals.** The appeals process will allow the applicant for a special license plate program to appeal the Department's decision to deny the application (See Section 003 of this rule). The notice of the appeal will be sent in writing via mail, electronic mail or facsimile within twenty (20) days of the denial. ( )

**1556. -- 198. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

**202. PROVISIONS FOR PERSONALIZED LICENSE PLATES.**

**01. Special Characters or Marks.** No special characters, or punctuation marks, may be used for personalized messages on license plates. (1-3-92)

**a.** Up to seven (7) letters or any combination of seven (7) letters and numbers and spaces (no half spaces) may be used for personalized messages on eligible six inch by twelve inch (6" x 12") license plates. (5-8-09)

**b.** Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on four inch by seven inch (4" x 7") motorcycle plates. (5-8-09)

**c.** Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on specialty program license plates. (5-8-09)

**d.** Disability six inch by twelve inch (6" x 12") plates will display the international handicapped symbol followed by up to five (5) letters, numbers, and spaces in the personalized message. Disability four inch by seven inch (4" x 7") motorcycle plates will display the international handicapped symbol followed by up to four (4) letters, numbers, and spaces (no half spaces) in the personalized message. (5-8-09)

**02. Issue of Personalized Plates.** Personalized plates can be issued only to vehicles if no specific wording is required on the plate to identify the purpose for which the vehicle is registered. Personalized plates will not be issued if such plates would jeopardize the integrity of unique plate identification requirements. Examples include but are not limited to: (1-3-92)

**a.** Commercial vehicles registered under the International Registration Plan (IRP), because the designators PRP are required to be printed on the plate; (1-3-92)

**b.** Vehicles for which the designators "PRP" are required to be printed on the plate to identify the use; and (4-2-08)

**c.** Utility, horse, or enclosed car hauling trailers with RV facilities or boat trailers. (4-2-08)

**03. Specific Requests.** Requests for specific plate letters and/or numbers will be issued on a first come, first served basis. In the event of a request for the same plate by more than one (1) individual, the request with the earliest postmark, e-mail transmission time, or fax transmission time will prevail. If the postmarks are the same, the date stamped upon arrival at the Department will prevail. Applications submitted at county assessors' offices will not be considered valid until stamped in by the Department. Telephone requests will not be accepted.

(4-2-08)

**04. Lack of Current Plates.** When an applicant for personalized plates does not have current regular number plates: (1-3-92)

**a.** The Department may issue a thirty (30) day temporary registration to allow time for the billing process for personalized plates. The fee for each thirty (30) day temporary registration shall be as required by Section 49-523, Idaho Code. (4-2-08)

**b.** The Department may, upon payment of all required fees, issue a ~~temporary~~ **proof of** registration document as provided in Section 012 of these rules. (4-2-08)( )

**05. Credits.** When personalized plates are issued before an applicant's current registration is expired, credit will be given for unexpired registration fees only. (1-3-92)

**06. Renewing Plates.** The applicant will have the choice of renewing existing personalized plates with validation stickers or ordering a new set of plates at the time of renewal. If new plates are requested, the plate fee will be charged in addition to all other fees that are due. New plates must be purchased every seven (7) years as provided in Section 49-443, Idaho Code. (4-2-08)

**07. Transfer of Plates.** When personalized plates are issued, the vehicle's regular number plates may be transferred to another vehicle belonging to the owner. If registration credit is given from the regular number plates to the personalized, the regular number plate registration is canceled. (1-3-92)

**08. Acceptability of Plates Message.** Acceptability of the personalized license plate message and issuance, denial or cancellation will be determined by the Department based on the following criteria: (1-3-92)

**a.** The combination of numbers and letters requested or combinations of same may not duplicate an existing combination in use, with the following exception. A duplication is allowed only when the combination of numbers and letters requested is the same on a small (ie: motorcycle sized plate) and a large (ie: passenger car) sized plate. (1-3-92)( )

**b.** The message, in any language, may not carry a sexual connotation nor consist of a term that is considered to be one of obscenity, contempt, prejudice, hostility, insult, racial degradation, ethnical degradation, or profanity, or vulgarity, as defined in dictionaries of general use, including, but not limited to, Webster's Unabridged Dictionary and the Harper & Row New Dictionary of American Slang. ( )

**i.** The message may not refer to any of the following: bodily functions, bodily fluids, or intimate body parts; sexual preference or orientation; acts of violence; or illegal substances; ~~or vulgarity, as defined in dictionaries of general use, including, but not limited to, Webster's Unabridged Dictionary and the Harper & Row New Dictionary of American Slang.~~ (3-2-10)( )

**ii.** The message may not represent a club, membership, or gang that is commonly

known to promote violence, illegal substances or illegal acts. ( )

**c.** The criteria in Paragraph 202.08.b. of these rules is not to be considered an exhaustive list. A compilation of offensive or obscene words, terms or letter/number combinations gathered from the experience of Idaho and other states may also be used as a guide. The Department may also rely on information obtained from law enforcement agencies within or outside of Idaho. (4-2-08)( )

**d.** When a complaint is received from the public concerning an issued plate, the name of the caller will not be recorded nor, if known, revealed. (1-3-92)

**e.** Final determination regarding applications for questionable messages or cancellation of issued plates will be made by the Division of Motor Vehicles. The determination process shall include a first review by technical staff, followed by a second review by supervisory and management staff. An applicant does, however, have a right to a hearing on the decision. (4-2-08)

**09. Message Preferences.** Applicants may submit three (3) message preferences including the specific meaning of each. The first choice that is available and acceptable will be issued. If none of the preferences are available or acceptable, the applicant will be notified by return mail. (4-2-08)

**10. Recalled Plates.** Personalized plates may be recalled by the Department for the following reasons: (1-3-92)

**a.** Error in manufacturing; or (1-3-92)

**b.** Clerical error. (1-3-92)

**c.** Unacceptable personalized messages as outlined in Paragraph 202.08.b. of these rules. (4-2-08)

**11. Unexpired Fees.** If a set of personalized plates is recalled, the personalized plate program fee, unexpired portion of the registration fee, E.M.S. fee, plate fee, (if plates are returned to the Department), and all other applicable special plate fees, will be refunded or transferred to a new issue of personalized plates. (4-2-08)

**12. Expired Plates.** Personalized plates that are allowed to expire shall become immediately available for reissue to another applicant. There is no grace period. (1-3-92)



## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.02.71 - RULES GOVERNING DRIVER'S LICENSE VIOLATION POINT SYSTEM

DOCKET NO. 39-0271-1301

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes effective on January 1, 2014, after the conclusion of the legislative session if approved by the legislature after review. In accordance with Section 67-5224 and 67-5291, Idaho Code, if the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 49-201, 49-326 and 50-336, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

House Bill 274, 2013, has established a new program for Traffic Safety Education for use in local jurisdictions to be offered for a fee in lieu of issuing a citation. It is necessary to amend the rule to accommodate this option. Also, ISP has requested the addition of certain moving violation to the list of convictions to eliminate discrepancies between ISTARS and ITD, which we fully support.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 211 through 215](#).

**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: There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ed Pemble, Driver Services Manager, 334-7830.

DATED this 25th day of November, 2013.

Lori Garza, Program Specialist  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State Street  
PO Box 7129, Boise ID 83707-1129  
phone - 208-334-8810 / fax - 332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Section 40-312, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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 rule-making:

House Bill 274, 2013, has established a new program for Traffic Safety Education for use in local jurisdictions that would be offered to drivers receiving certain infraction violations who may elect to attend the program as an alternative to receiving violation points and insurance rating charges. It is necessary to amend the rule to accommodate this option. Also, ISP has requested the addition of certain moving violations to the list of convictions to eliminate discrepancies between ISTARs and ITD, which we fully support.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. There are no fees being imposed or increased by this rulemaking.

**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: There is no fiscal impact to the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is being changed to comply with changes in statute and is not subject to negotiation.

**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 Ed Pemble, Driver Services Manager, 332-7830.

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 September 25, 2013.

DATED this 17th day of July, 2013.

## LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0271-1301

### 100. VIOLATION POINT COUNT SYSTEM.

**01. Points for Moving Traffic Violations.** The Idaho Code authorizes the Department to establish a violation point count system for drivers convicted of various moving traffic violations and infractions occurring either within the state of Idaho, or outside the state of Idaho. Therefore, a schedule of violation points for moving traffic violations and infractions has been established. Moving traffic violations and infractions are violations that occur while operating a motor vehicle. (7-1-97)

**02. Violation Point Count List.** The following violation point count list includes *all* moving violations and infractions in Idaho Code, and the appropriate sections. Convictions of moving violations and infractions not herein listed which are violations of a state law or municipal ordinance will receive three (3) violation points, except those for which mandatory suspension/revocation is required by statute or the statute provides a point exemption. (~~4-4-13~~)( )

**03. Points Assessed.** Each moving traffic conviction and infractions shall be assessed from one (1) point for less serious violations to a maximum of four (4) points for more serious violations. The degree of seriousness of moving traffic violations and infractions has been determined by considering the possibility of bodily injury or property damage resulting from such violation. (7-1-97)

**04. Dual Violation.** In cases where the driver is convicted of more than one (1) violation arising from one (1) occasion of arrest or citation, only one (1) conviction will be counted and assessed points against the driver's record. The conviction counted will be *counted the one* with the greater amount of points. (~~7-20-89~~)( )

**05. Speeding Violation.** Drivers convicted of traveling sixteen (16) miles per hour or more over the posted maximum speed limit or exceeding the speed limit in a *construction danger work* zone will receive four (4) points. Driving convictions of other speeding violations will receive three (3) points. (~~4-4-13~~)( )

**06. Exemptions.** No points will be assessed to an Idaho driving record for texting as defined per Section 49-1401A(2), Idaho Code, and Safety Restraint Use as defined per Sections 49-673(3) and (4), Idaho Code. ( )

**101. -- 199. (RESERVED)**

**200. LIST OF MOVING TRAFFIC CONVICTIONS AND/OR VIOLATIONS POINT COUNT.**

<b>Idaho Code</b>	<b>Convictions Reported by Court</b>	<b>Point Count</b>
49-603	Starting Parked Vehicle	two (2)
49-604	Limitations On Backing	one (1)
<u>49-605</u>	<u>Driving Upon Sidewalk</u>	<u>three (3)</u>
<u>49-606</u>	<u>Coasting Prohibited</u>	<u>two (2)</u>
<u>49-612</u>	<u>Obstruction To Driver's View Or Driving Mechanism</u>	<u>three (3)</u>
<u>49-614</u>	<u>Stopping When Traffic Obstructed</u>	<u>one (1)</u>
49-615	Drivers To Exercise Due Care	three (3)
49-616	Driving Through Safety Zone Prohibited	two (2)
<u>49-619</u>	<u>Slow Moving Vehicles</u>	<u>two (2)</u>
<u>49-623(4)</u>	<u>Authorized Emergency Or Police Vehicles</u>	<u>three (3)</u>
49-624	Duty Upon Approaching A Stationary Police Vehicle, Or An Emergency Vehicle Displaying Flashing Lights	three (3)
49-625	Operation Of Vehicles On Approach Of Authorized Emergency Or Police Vehicles	three (3)
<u>49-626</u>	<u>Following Fire Apparatus Prohibited</u>	<u>three (3)</u>
<u>49-627</u>	<u>Crossing Fire Hose</u>	<u>one(1)</u>
49-630	Drive On Right Side Of Roadway - Exceptions	three (3)
49-631	Passing Vehicles Proceeding In Opposite Directions	two (2)
49-632	Overtaking A Vehicle On Left	three (3)
49-633	When Passing On The Right Is Permitted	two (2)
49-634	Limitations On Overtaking On The Left	three (3)
49-635	Further Limitations On Driving On Left Of Center Of Highway	three (3)
49-636	One-way Highways	one (1)
49-637	Driving On Highways Laned For Traffic	one (1)
49-638	Following Too Closely	three (3)
<u>49-639</u>	<u>Turning Out Of Slow Moving Vehicles</u>	<u>two (2)</u>
49-640	Vehicles Approaching Or Entering Unmarked Or Uncontrolled Intersection	three (3)
49-641	Vehicle Turning Left	three (3)

Idaho Code	Convictions Reported by Court	Point Count
49-642	Vehicle Entering Highway	three (3)
<u>49-643</u>	<u>Highway Construction And Maintenance</u>	<u>three (3)</u>
49-644	Required Position And Method Of Turning	three (3)
49-645	Limitations On Turning Around	three (3)
49-648	Obedience To Signal Indicating Approach Of Train	four (4)
49-649	Compliance With Stopping Requirement At All Railroad Grade Crossings	four (4)
49-650	<del>Failure to Allow Sufficient Undercarriage Clearance at Railroad Grade Crossing</del> <u>Moving Heavy Equipment At Railroad Grade Crossings</u>	three (3)
49-651	Emerging From Alley, Driveway Or Building	three (3)
49-654	Basic Rule And Maximum Speed Limits	three (3) four (4)
49-655	Minimum Speed Regulation	three (3)
49-656	Special Speed Limitations	three (3) four (4)
49-657	<del>Construction Danger</del> <u>Work</u> Zone Speed Limits	<del>three (3)</del> <u>four (4)</u>
49-658	School Zone Speed Limit	three (3)
<u>49-663</u>	<u>Restricted Use Of Neighborhood Electric Vehicles On Highways</u>	<u>two (2)</u>
<u>49-673(3)&amp;(4)</u>	<u>Safety Restraint Use</u>	<u>Exempt</u>
49-702	Pedestrians' Right Of Way In Crosswalks	three (3)
<u>49-706</u>	<u>Blind And/Or Hearing Impaired Pedestrian Has Right-of-Way</u>	<u>three (3)</u>
<u>49-707</u>	<u>Pedestrians' Right-of-Way On Sidewalks</u>	<u>three (3)</u>
49-801	Obedience To And Required Traffic Control Devices	three (3)
49-802	Traffic Control Signal Legend	three (3)
49-804	Flashing Signals	three (3)
<u>49-806</u>	<u>Lane Use Control Signals</u>	<u>three (3)</u>
49-807(2)	Stop Signs	three (3)
49-807(3)	Failure To Yield – Signed Intersection	three (3)
49-808	Turning Movements And Required Signals	three (3)
49-1302	Duty To Give Information In Accident Involving Damage To A Vehicle	four (4)
49-1303	Duty Upon Striking Unattended Vehicle	four (4)
49-1304	Duty Upon Striking Fixtures Upon Or Adjacent To A Highway	four (4)
49-1401(3)	Inattentive Driving	three (3)
49-1401A	Texting While Driving	Exempt
49-1419	Obedience To Traffic Direction	two (2)
49-1421(1)	Driving On Divided Highways	one (1)

Idaho Code	Convictions Reported by Court	Point Count
49-1421(2)	Restricted Access	one (1)
49-1422	Overtaking And Passing School Bus	four (4)
49-1424	Racing On Public Highways	four (4)

(4-4-13)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. COMPLETION OF A DEFENSIVE DRIVING CLASS OR TRAFFIC SAFETY EDUCATION PROGRAM.**

**01. Removal of ~~Three~~ Points Upon Completion of Defensive Driving Class or Traffic Safety Education Program.** Three (3) points may be removed from an Idaho driving record upon the driver's completion of an approved defensive driving class or points may be removed from an infraction upon the driver's completion of an approved traffic safety education program. ~~These p~~Points may only be removed from a driver's record once every three (3) years. This time restriction begins on the completion date of either a ~~driver's first~~ defensive driving class or traffic safety education program. (7-1-97)( )

**a.** For completion of a defensive driving class, points are only removed from the violation point count total on the driving record. ( )

**b.** For completion of a traffic safety education program as provided in Section 50-336, Idaho Code, points are removed from the conviction for which the traffic safety education program was taken. ( )

**02. Driving Conviction Cannot Be Removed.** A driver may not remove a driving conviction from his record by attending a defensive driving class or a traffic safety education program. (7-1-97)( )

**03. Suspension for Excessive Points.** Once the department has suspended a driver for excessive points, that driver may not waive the suspension action by attending a defensive driving class or traffic safety education program. (7-1-97)( )

**04. Driver May Not Reserve ~~Three~~ Point Reduction.** When a driver completes a defensive driving class or traffic safety education program but has no violation points on his driver record, he may not reserve a ~~three (3)~~ point reduction for use on a future point-assessing violation. (7-1-97)( )

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.12 - RULES GOVERNING SAFETY REQUIREMENTS OF OVERLEGAL PERMITS

DOCKET NO. 39-0312-1301

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 49-201, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

At the request of industry, we are proposing changes to amend lighting and signing requirements to provide greater flexibility. We are also addressing some housekeeping changes to provide clarity. The rule now provides for flashing as well as non flashing lights. Signing dimension minimums have been standardized for towing, oversize and escort vehicles. Limitations and restrictions on a size and/or length of vehicle combinations on color-coded routes have been specified for units traveling in a convoy. Other language has been amended to provide clarity.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013 Idaho Administrative Bulletin, [Vol. 13-9, pages 216 through 219](#).

**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: There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 25th day of November, 2013.

Lori Garza, Program Specialist  
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Idaho Transportation Department  
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**THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2013**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 49-201, 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 September 18, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

At the request of industry, we are proposing changes to amend lighting and signing requirements to provide greater flexibility. We are also addressing some housekeeping changes to provide clarity.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rule confers a benefit to the industry by providing for flashing as well as non-flashing lights and by standardizing signing dimension minimums for towing, oversized and escort vehicles. Limitations and restrictions on a size and/or length of vehicle combinations on color-coded routes have been specified for units traveling in a convoy.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or



increased: There are no fees being imposed or increased by this rulemaking.

**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: There is no fiscal impact.

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because industry has made specific requests regarding lighting and signing requirements. In particular, the use of flashing lights for increased safety.

**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 temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 17th day of July, 2013.

### LSO Rules Analysis Memo

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0312-1301**

#### **100. LIGHTING REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS TRAVELING AFTER DARK.**

Those overdimensional vehicles and/or loads traveling during hours of darkness shall be required to display lights to mark the extremities of the vehicle and/or load, and shall be in addition to those clearance lights required on legal size vehicles when traveling at night. (4-5-00)

**01. Standards for Lights on Oversize Vehicles and/or Loads. (4-5-00)**

**a.** Lights are only required on those vehicles traveling after dark. (dark is defined as one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise). (4-5-00)

**b.** The lights must be visible from a minimum of five hundred (500) feet. (4-5-00)

**c.** The lights ~~shall~~ may be ~~flashing or~~ steady burning. (~~4-5-00~~)( )

d. The color of the lights shall be as follows: (4-5-00)

i. Lights visible from the front of the oversized vehicle and/or loads and the extremities in the middle or near the front of the oversized vehicle and/or load shall be amber. (4-5-00)( )

ii. Lights visible from the back of the oversized vehicle and/or load and the extremities near the back of the oversized vehicle and/or load shall be red. (4-5-00)( )

**02. Standards for Lights on Rear Overhang.** Lights are required when rear overhang exceeds the end of the trailer by four (4) feet or more. (4-5-00)

a. If the overhang is two (2) feet wide or less only one (1) light is required on the end of the overhang. (4-5-00)

b. If the overhang is over two (2) feet wide, two (2) lights are required on the end of the overhang to show the maximum width of the overhang. (4-5-00)

~~03. Standards for Warning Lights on Towing Vehicle. Amber flashing lights displayed on a towing vehicle operating at night, shall be mounted above the cab and meet the following: Rotating or flashing beacon visible from a minimum of five hundred (500) feet. (4-5-00)~~

**101. -- 199. (RESERVED)**

**200. FLAGGING REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS.** Warning flags for oversize vehicles and/or loads, excluding extra-length vehicle combinations, shall be marked by warning flags meeting the following: (4-5-00)

**01. Warning Flags.** Warning flags are required on all overwidth vehicles and/or loads and when the rear overhang exceeds the end of the trailer by four (4) feet or more. (4-5-00)

**02. Size.** Minimum size of flags is eighteen (18) inches by eighteen (18) inches. (3-29-10)

**03. Color.** Red or fluorescent orange. (4-5-00)

**04. Placement of Flags.** On overwidth vehicles and/or loads, flags shall be placed at the four (4) corners and/or extremities of the vehicle and/or load as follows: (4-5-00)

a. Front. Fastened to each front corner of the oversized vehicle and/or load if it exceeds legal width. (4-5-00)( )

b. Rear. Fastened to each rear corner of the oversized vehicle and/or load if it exceeds legal width. (4-5-00)( )

c. Side. Fastened to mark any extremity, when extremity is wider than the front or the

rear of the vehicle and/or load. (4-5-00)

**d.** Overhang. If the overhang is two (2) feet wide or less only one (1) flag is required on the end of the overhang. If the overhang is over two (2) feet wide, two (2) flags are required on the end of the overhang to show the maximum width of the overhang. (4-5-00)

**201. -- 299. (RESERVED)**

**300. SIGNING REQUIREMENTS OF TOWING VEHICLES, OVERSIZE VEHICLES AND/OR LOADS.**

Oversize load signs shall meet the following specifications: (4-5-00)

**01. Dimensions.** ~~Eighteen~~ **A minimum of twelve** (18~~2~~) inches high by ~~seven five~~ (7~~5~~) feet wide, ~~letter height ten and eight~~ (10~~8~~) inches **high letters**, ~~letter type standard series C~~, **one (1) inch** stroke width ~~one and five eighths (1 5/8) inch~~, **and** black letters on yellow background. (4-5-00)(    )

**02. Displaying Signs.** Signs shall be displayed on the front or the roof top of the towing vehicle and the rear of the oversize load. Shall be displayed on the front and back or the roof top of self propelled oversize vehicles. (4-2-08)

**03. When Signs Are Required.** Oversize load signs shall be required on all vehicles and/or loads exceeding legal width. Signs shall not be displayed when the vehicle is empty and of legal dimensions. (4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. PILOT/ESCORT VEHICLE SIGN REQUIREMENTS.**

**01. Oversize Load Signs.** All pilot/escort vehicles while escorting and oversize load shall display a sign on the roof top of the vehicle having the words OVERSIZE LOAD. Such signs shall not be displayed and shall be considered illegal except when the pilot/escort vehicle is actually piloting/escorting an oversize load. (4-2-08)

**02. Dimensions.** ~~Ten~~ **Twelve** (10~~2~~) inches high by five (5) feet wide, ~~type standard series B~~, **and** eight (8) inch high letters, one (1) inch stroke width, and black letters on yellow background. (4-5-00)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**800. PILOT/ESCORT VEHICLE PLACEMENT.**

**01. Front Pilot/Escort Vehicle.** The movement of an oversize vehicle and/or load ~~shall~~ **may** be preceded by a pilot/escort vehicle on those sections of highway where the vehicle and/or load cannot travel within its proper travelway lane. (4-5-00)( )

**02. Rear Pilot/Escort Vehicle.** As authorized by Section 49-940, Idaho Code, when the width of a load obstructs the driver's view to the rear ~~or when traffic control is required so~~ **they cannot see two hundred (200) feet behind them**, a rear escort shall be required to accompany the oversize load and to communicate with the driver of the permitted load concerning impeded overtaking traffic for the purpose of providing passing opportunity. (4-5-00)( )

**03. Advance Pilot/Escort Vehicle.** A third pilot/escort vehicle may be required when the load is of such extreme dimensions for the route of travel as to require holding opposing traffic at turnouts and intersections to provide for passage of the load. (4-5-00)

**04. First Movement from the Forest.** A pilot/escort vehicle is not required on the first movement from the forest of tree-length logs or poles if the overall length does not exceed one hundred ten (110) feet. Secondary movements must comply with the requirements stated on the Pilot/Escort Vehicle and Travel Time Requirements map. (4-5-00)

**05. Spacing.** Approximately one thousand (1,000) feet shall be maintained in rural areas between the piloting/escorting vehicle and any oversize load. This spacing may be reduced in urban areas when necessary to provide traffic control for turning movements. (4-5-00)

**801. -- 899. (RESERVED)**

**900. CONVOY OF OVERLEGAL LOADS.**

**01. Convoying Oversize Loads.** Oversize loads which individually would require a pilot/escort vehicle, except overwidth manufactured homes, office trailers **and modular buildings**, may be permitted to travel in convoy with pilot/escort vehicles in front of and behind the convoy, but such convoys shall not exceed four (4) oversize loads or vehicles between pilot/escort vehicles. Maximum width of units in a convoy shall be limited to fourteen (14) feet ~~six (6) inches on the interstate system or~~ **wide** on black-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map and to twelve (12) feet six (6) inches on red-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map. Oversize loads which do not individually require a pilot/escort vehicle may travel in convoy without pilot/escort vehicles. Maximum length of units in a convoy shall be limited to one hundred (100) feet on ~~red-coded and~~ black-coded routes **and seventy five (75) feet on red-coded routes** of the pilot/escort vehicle and travel time requirements map and one hundred twenty (120) feet on the interstate system. (4-2-08)( )

**02. Convoying Manufactured Homes, Office Trailers, and Modular Buildings.** No convoy of overwidth manufactured homes, **modular buildings** or office trailers shall include more than two (2) units ~~and~~ **between** two (2) piloting/escorting vehicles. On those routes where pilot/escort vehicles are required in front and to the rear of an overwidth manufactured home or office trailer, two (2) units may travel in convoy between such piloting/escorting vehicles. On routes requiring only a front pilot/escort vehicle, the manufactured home or office trailer mover may have the option of convoying two (2) units between front and rear pilots/escorts. At no time shall more than one (1) manufactured home or office trailer be piloted/escorted by one (1) pilot/escort

vehicle. Maximum width of units in a convoy shall be limited to fourteen (14) feet wide on black-coded routes and to ten (10) feet wide on red-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map. Minimum spacing of approximately one thousand (1000) feet shall be maintained between all units in a convoy except when a pilot/escort is required to control traffic in turning movements. Maximum length of units in a convoy shall be limited to one hundred (100) feet on black-coded routes and seventy five (75) feet on red-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map and one hundred twenty (120) feet on the interstate system. ~~(4-2-08)~~( )

**901. -- 949. (RESERVED)**

**950. PILOT/ESCORT VEHICLE AND TRAVEL TIME REQUIREMENTS MAP.**

Color-coded maps on pilot/escort vehicle and travel time requirements for overwidth loads are available from the Headquarters Overlegal Permit Office, and Ports of Entry ~~and all Highway District offices~~ for the information of enforcement officers and the trucking industry. The routes chosen as depicted on the Map are based on ability of the road to carry the over-all maximum width of load (not just base width) and character of the route of travel. ~~(4-5-00)~~( )

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.15 - RULES GOVERNING INTERSTATE EXCESS WEIGHT PERMITS

DOCKET NO. 39-0315-1301

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 49-201, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Amendments to Idaho Code in Senate Bill 1064 have codified the designation of specified routes for loads up to 129,000 pounds. Those amendments require updates to IDAPA 39.03.15.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 7, 2013 Idaho Administrative Bulletin, [Vol. 13-8, pages 299 through 301](#).

**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: There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 25th day of November, 2013.

Lori Garza, Program Specialist  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State Street  
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phone - 208-334-8810 / fax - 332-4107  
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**THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2013**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 40-312 and 49-1004, 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 August 21, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

Amendments to Idaho Code in Senate Bills 1064 and 1117 and House Bill 322 have altered the process for the designation of routes for loads of up to 129,000 pounds. Those amendments require updates to IDAPA 39.03.15 as well as 39.03.22.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rulemaking is necessary for compliance with changes in House Bill 1064, Senate Bill 1117, and House Bill 322 from the 2013 Legislative Session.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There are no fees being imposed or increased by this rulemaking.

**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:

There is no fiscal impact to the state general fund.

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated

rulemaking was not conducted because changes to this rule were necessary to comply with Senate Bill 1064, which codified the routes designated in the 129,000 Pound Pilot Project, and Senate Bill 1117 and House Bill 322, which authorize jurisdictions to consider additional routes for vehicle combinations up to 129,000 Pounds when specified criteria has been met. Changes to all rules associated with these legislative actions were developed by a sub-committee, led by Idaho Transportation Board Member Jim Kempton, and members appointed by the Board Chairman Jerry Whitehead, which included additional Board Members, ITD staff, ISP staff, and representatives from the Department of Commerce, Idaho Trucking Advisory Council, the Local Highway Technical Assistance Council, and other participants, as needed.

**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 temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before **October 24, 2013**. The comment period has been extended to coincide with the last public hearing date. This date was amended after the publication of the legal notice.

DATED this 28th day of June, 2013.

[LSO Rules Analysis Memo](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0315-1301**

**IDAPA 39**  
**TITLE 03**  
**CHAPTER 15**

**39.03.15 - RULES GOVERNING INTERSTATE EXCESS WEIGHT PERMITS FOR  
REDUCIBLE LOADS**

**000. LEGAL AUTHORITY.**

This rule, governing vehicles operating on the Interstate and non-interstate highway system in excess of eighty thousand (80,000) pounds, is adopted under the authority of Sections 40-312 and



49-1004, Idaho Code.

~~(10-2-89)~~( )

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 39.03.15, “Rules Governing Excess Weight Permits for Reducible Loads,” IDAPA 39, Title 03, Chapter 15. ( )

**02. Scope.** This rule authorizes the issuance of special permits which allow vehicle combinations to operate in excess of eighty thousand (80,000) pounds when hauling reducible loads on the Interstate and non-interstate highway system if legal axle weight limits are not exceeded. ~~(10-2-89)~~( )

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for this chapter. ( )

**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.” ( )

**004. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference in this chapter. ( )

**005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.**

**01. Street And Mailing Address.** The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. ( )

**02. Office Hours.** Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. ( )

**03. Telephone and Fax Numbers.** The central office may be contacted during office hours by phone at 208-334-8420, 1-800-662-7133 or by fax at 334-8419. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. ( )

~~007.~~ -- 009. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. GENERAL REQUIREMENTS AND CONDITIONS.**

**01. Weights Allowed on Interstate.** The Federal Highway Amendment Act of 1974 established allowable legal weight limits on Interstate System Highways at twenty thousand (20,000) pounds on single axles, thirty-four thousand (34,000) pounds on tandems, and ~~formula weights for~~ total gross loads not exceeding eighty thousand (80,000) pounds. ~~(10-2-89)( )~~

**02. Weights Allowed on Non-Interstate Highways.** Allowable legal weight limits on non-interstate highways are set at twenty thousand (20,000) pounds on single axles, thirty-seven thousand eight hundred (37,800) pounds on tandems, and total gross loads not exceeding eighty thousand (80,000) pounds. ( )

**023. Permits Types to Exceed Eighty Thousand Pounds Gross Weight.** ~~Excess weight p~~Permits will be issued for vehicle combinations operating on Interstate ~~Routes and non-interstate highways~~ with total gross loads exceeding eighty thousand (80,000) pounds but not to exceed twenty thousand (20,000) per single axle, thirty-four thousand (34,000) pounds per tandem, and not to exceed the weight limit for any group of two (2) or more consecutive axles established by Section 49-1001, Idaho Code. ~~Combination excess weight and extra length permits are available.~~ ~~(1-3-92)( )~~

**a. Excess Weight Permit - gross weight limited to one hundred five thousand five hundred (105,500) pounds on interstate and non-interstate highways.** ( )

**b. Extra Length/Excess Weight Permit - gross weight limited to one hundred five thousand five hundred (105,500) pounds on interstate and non-interstate highways and length limited to those specified in IDAPA 39.03.22, "Rules Governing Overlegal Permits for Extra Length, Excess Weight and Up to 129,000 Pound Vehicle Combinations."** ( )

**c. Up to One Hundred Twenty-Nine Thousand (129,000) Pounds - gross weight not to exceed one hundred twenty-nine thousand (129,000) pounds on designated highways and length limited to those specified in IDAPA 39.03.22, "Rules Governing Overlegal Permits for Extra Length, Excess Weight and Up to 129,000 Pound Vehicle Combinations."** ( )

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-1301

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes effective on July 1, 2013, after the conclusion of the legislative session if approved by the legislature after review. In accordance with Section 67-5224 and 67-5291, Idaho Code, if the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Amendments to Idaho Code in Senate Bill 1064 have codified the designation of specified routes for loads up to 129,000 pounds. Amendments to Idaho Code in Senate Bill 1117 and House Bill 322 have altered the process for the further designation of routes for and permitting of loads of up to 129,000 pounds. Those amendments require updates to this rule, among others to implement this practice.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 7, 2013 Idaho Administrative Bulletin, [Vol. 13-8, pages 302 through 308](#).

**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: There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 25th day of November, 2013.

Lori Garza, Program Specialist  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State Street  
PO Box 7129, Boise ID 83707-1129  
phone - 208-334-8810 / fax - 332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

**THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2013**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 40-312, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

<b>Monday, October 7, 2013, 4:00 to 7:00 p.m. Local Time</b>	
<b>Red Lion Hotel</b> 1555 Pocatello Creek Road Pocatello, ID 83201	<b>Shilo Inn Suites</b> 780 Lindsay Boulevard Idaho Falls, ID 83402

<b>Wednesday, October 9, 2013, 4:00 to 7:00 p.m. Local Time</b>	
<b>Best Western Plus Coeur d'Alene Inn</b> 506 W. Appleway Avenue Coeur d'Alene, ID 83814	<b>Red Lion Hotel</b> 621 21st Street Lewiston, ID 83501

<b>Wednesday, October 16, 2013, 4:00 to 7:00 p.m. Local Time</b>
<b>Best Western Plus Twin Falls Hotel</b> 1377 Blue Lakes Boulevard Twin Falls, Idaho 83301

<b>Thursday, October 17, 2013, 4:00 to 7:00 p.m. Local Time</b>
<b>Red Lion Hotel</b> 1800 Fairview Avenue Boise, Idaho 83702

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

Amendments to Idaho Code in Senate Bill 1064 have codified the designation of specified routes for loads up to 129,000 pounds. Amendments to Idaho Code in Senate Bill 1117 and House Bill 322 have altered the process for the further designation of routes for and permitting of loads of up to 129,000 pounds. Those amendments require updates to this rule, among others to implement this practice.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rulemaking implements the provisions of Senate Bill 1064 and provides continuity of motor carrier operations. It provides clarification regarding the vehicle combinations governed under this rule, clarifies that only non-interstate routes will allow weights above 105,500 pounds up to 129,000 pounds, and specifies the operating requirements on designated routes, authorized for up to 129,000 pounds. The order of the information in the rule has been modified for better flow and understanding of the requirements.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There are no fees being imposed or increased by this rulemaking.

**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:

There is no fiscal impact to the state general fund.

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes to this rule were necessary to comply with Senate Bill 1064, which codified the routes designated in the 129,000 Pound Pilot Project, and Senate Bill 1117 and House Bill 322, which authorize jurisdictions to consider additional routes for vehicle combinations up to 129,000 pounds when specified criteria has been met. Changes to all rules associated with these legislative actions were developed by a sub-committee, led by Idaho Transportation Board Member Jim Kempton, and members appointed by the Board Chairman Jerry Whitehead, which included additional Board Members, ITD staff, ISP staff, and representatives from the Department of Commerce, Idaho Trucking Advisory Council, the Local Highway Technical Assistance Council, and other participants, as needed.

**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 temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before **October 24, 2013**. The comment period has been extended to coincide with the last public hearing date. This date was amended after the publication of the legal notice.

DATED this 8th day of July, 2013.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0322-1301**

**IDAPA 39**  
**TITLE 03**  
**CHAPTER 22**

**39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR  
EXTRA-LENGTH, EXCESS WEIGHT, AND UP TO 129,000 POUND VEHICLE  
COMBINATIONS**

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be cited as IDAPA 39.03.22, “Rules Governing Overlegal Permits for Extra-Length, Excess Weight, and Up to 129,000 Pound Vehicle Combinations,” IDAPA 39, Title 03, Chapter 22. ~~(3-22-00)~~( )

**02. Scope.** This rule states the requirements and routes for extra-length, excess weight and up to one hundred twenty-nine thousand (129,000) pound vehicle combinations. ~~(3-22-00)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.**

**01. Street And Mailing Address.** The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. (3-20-04)

**02. Office Hours.** Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (4-7-11)

**03. Telephone and Fax Numbers.** The central office may be contacted during office hours by phone at 208-334-8420, 1-800-662-7133 or by fax at 334-8419. (~~3-20-04~~)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. DESIGNATED ROUTES FOR EXTRA LENGTH VEHICLE COMBINATIONS CARRYING UP TO ONE HUNDRED FIVE THOUSAND FIVE HUNDRED POUNDS SHALL BE DESIGNATED IN FOUR CATEGORIES.**

The e“Extra Length Map” listing the designated routes for vehicles operating up to one hundred five thousand five hundred (105,500) pounds is available at the Idaho Transportation Department offices. This map is not the same as the “Designated Routes Up to 129,000 Pound Map” listed in Section 200. (~~10-2-89~~)( )

**01. Blue-Coded Routes.** Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (blue-coded routes). A vehicle combination operating on routes designated for up to ninety-five (95) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed. ( )

**02. Red-Coded Routes.** Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed. ( )

**03. Black-Coded Routes.** Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). A vehicle combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy-five (8.75) feet when computed. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges

will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seventy-five (8.75) feet off-tracking. ( )

**04. Green-Coded Routes.** Selected state highway routes (green coded routes) for operation of a vehicle combination whereby its maximum off-tracking will not exceed three (3) feet on a one hundred sixty-five (165) foot radius when computed, and its overall length including load overhang does not exceed eighty-five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes and traffic operations. ( )

101. -- 199. (RESERVED)

*[Previously codified Section 200 is being moved and renumbered to Section 300]*

~~4200. PILOT PROJECT TO EXCEED ONE HUNDRED FIVE THOUSAND, FIVE HUNDRED POUNDS DESIGNATED ROUTES FOR VEHICLE COMBINATIONS UP TO ONE HUNDRED TWENTY-NINE THOUSAND POUNDS.~~

In addition to the *previously stated* requirements *that must be met listed in Sections 300 and 400*, vehicles *combinations* operating *at weights in excess of one hundred five thousand five hundred (105,500) up to one hundred twenty-nine thousand (129,000)* pounds, must *also* meet the following requirements: (3-22-00)( )

**01. Brakes.** All axles *must shall* be equipped with brakes *that meet the Federal Motor Carrier Safety Regulations.* (3-22-00)( )

**02. Permits.** Permits will be vehicle specific and will *list the axle spacings, number of axles and the gross weight. The state issued permit must be displayed in the lower right hand corner of the windshield* *be in addition to any extra length and excess weight permit for operation of vehicle combinations at weights up to one hundred five thousand five hundred (105,500) pounds.* (3-20-04)( )

**03. Trip Logs Designated Routes.** *Trip logs will be required to be submitted quarterly in a standard format and submitted electronically with the following information: All designated state approved routes for vehicle combinations to operate at weights above one hundred five thousand five hundred (105,500) pounds will be identified on the "Designated Routes Up to 129,000 Pound Map" which is available at the Idaho Transportation Department.* (3-20-04)( )

**a.** *Each trip must be listed (a trip is defined as each way unladen or laden); Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (magenta-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed.* (3-22-00)( )



- ~~b.~~ *Date trip occurred;* (3-22-00)
- ~~c.~~ *Origin;* (3-22-00)
- ~~d.~~ *Destination;* (3-22-00)
- ~~e.~~ *Route (list each highway traveled);* (3-20-04)
- ~~f.~~ *Gross weight of vehicle configuration (unladen or laden); and* (3-20-04)
- ~~g.~~ *Unit number.* (3-20-04)

~~04. **Failure to Comply.** The motor carrier's failure to submit trip logs quarterly, as required by Subsection 400.03, will result in the revocation of all pilot project permits issued to the carrier. Upon submission of all delinquent trip logs, new permits may be issued.~~ (3-20-04)

201. -- 299. (RESERVED)

*[Previously codified Section 300 is being moved and renumbered to Section 400]*

**2300. CONDITIONS AND OPERATING REQUIREMENTS FOR EXTRA-LENGTH, EXCESS WEIGHT, AND UP TO 129,000 POUND VEHICLE COMBINATIONS.**

*Extra-length All* vehicle combinations shall be subject to the following conditions, limitations, and requirements: (10-2-89)(\_\_\_\_)

~~01. **Extra Length Vehicle Combinations Cargo Carrying Units.** Vehicle combinations operating with an overall length in excess of the limits imposed in Section 49-1010, Idaho Code, shall consist of not more than four (4) units, shall not exceed one hundred fifteen (115) feet overall and no such vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang.~~ (3-20-04)(\_\_\_\_)

~~02. **Routes for Extra Length Operations.** Shall be designated in four (4) categories:~~ (9-4-91)

~~a. *Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (blue-coded routes). An extra-length combination operating on routes designated for ninety-five (95) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed by the equation developed by Western Highway Institute (WHI) for computation of maximum vehicular off-track.*~~ (4-7-11)

~~b. *Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red-coded routes). An extra-length combination operating on routes designated for one hundred fifteen (115) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero*~~

~~(6.50) feet on a one hundred sixty five (165) foot radius when computed by the WHI equation referred to above. (3-20-04)~~

~~**e.** Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black coded routes). An extra-length combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy five (8.75) feet when computed by the WHI equation referred to above. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seventy five (8.75) feet off-tracking. (3-22-00)~~

~~**d.** Selected state highway routes (green coded routes) for operation of an extra-length combination whereby its maximum off-tracking will not exceed three (3) feet on a one hundred sixty five (165) foot radius when computed by the WHI equation and its overall length including load overhang does not exceed eighty five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes and traffic operations. (8-25-94)~~

**032. Power Unit.** The power unit of *extra-length all vehicle* combinations shall have adequate power and traction to maintain a minimum of *fifteen twenty (1520)* miles per hour under normal operating conditions on any up-grade over which the combination is operated. ~~(10-2-89)(7-1-13)T~~

**043. Connecting Devices.** Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393. (4-7-11)

**054. ~~Weather~~ Hazardous Travel Conditions Restrictions.** Extreme caution in the operation of *an extra-length permitted* vehicle combinations shall be exercised when hazardous conditions *such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke adversely affect visibility or traction exist.* Speed shall be reduced when such conditions exist. When conditions become sufficiently dangerous, the company or the operator shall discontinue operations and operations shall not be resumed until the extra-length vehicle combination can be safely operated. ~~The state may restrict or prohibit operations during periods when in the state's judgment traffic, weather, or other safety conditions make such operations unsafe or inadvisable.~~ **The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid en route when travel conditions become hazardous. Hazardous conditions include, but are not limited to, ice, snow or frost; or when visibility is restricted to less than five hundred (500) feet.** ~~(8-25-94)( )~~

**065. Trailer Weight Sequence.** In any extra-length combination, the respective loading of any trailer shall not be substantially greater than the weight of any trailer located ahead of it in the vehicle combination. (Substantially greater shall be defined as more than four thousand (4,000) pounds heavier.) (10-2-89)

**076. Operating Restrictions.** Operators of all vehicle combinations governed by this

rule shall comply with the following operating restrictions: (8-25-94)

a. A minimum distance of five hundred (500) feet shall be maintained between combinations of vehicles except when overtaking and passing. (10-2-89)

b. Except when passing another vehicle traveling in the same direction, the combination shall be driven so as to remain at all times on the right hand side of the centerline of a two (2) lane, two (2) way highway, or on the right hand side of a lane stripe or marker of a highway of four (4) or more lanes. (1-1-90)

c. Be in compliance with all Federal Motor Carrier Safety Regulations. (3-22-00)

**087. Insurance Requirements.** Every **vehicle** combination operated under this rule shall be covered by insurance of not less than five hundred thousand dollars (\$500,000) combined single limit. The permittee or driver of the permitted vehicle combination shall carry in the vehicle evidence of insurance written by an authorized insurer to certify that insurance in this minimum amount is currently in force. (~~8-25-94~~)(    )

**098. Tire Limitations.** Single axles on *extra-length* vehicle combinations shall be equipped with four (4) tires except on the steering axle, or variable load suspension axles (VLS-lift axles), unless equipped with fifteen (15) inch wide or wider single tires. Multiple axle configurations may be equipped with single tires on each of the axles as long as the pounds-per-inch width of tire does not exceed *the limits as listed in Section 49-1002, Idaho Code* **six hundred (600) pounds, the manufacturers rating or legal weights whichever is less.** (~~5-8-09~~)(    )

**09. Brakes.** Brakes shall meet the Federal Motor Carrier Safety Regulations. (    )

301. -- 399. (RESERVED)

*[Previously codified Section 400 is being moved and renumbered to Section 200]*

**3400. OVERLEGAL PERMITS FOR OPERATIONS OF EXTRA-LENGTH, OPERATIONS EXCESS WEIGHT, AND UP TO 129,000 POUND VEHICLE COMBINATIONS.**

**01. Permit Attachments.** All vehicles in *extra-length* operation shall be allowed to travel under the authority of overlegal permits issued to the power unit. A copy of this rule shall accompany and shall be a part of all annual extra-length, **excess weight, and up to 129,000 pound** permits. An allowable gross loads table shall accompany and be referred to on the face of the permit. ~~Extra-length o~~Operations shall be valid only on routes of the state highway system designated for such purposes as set forth on the ~~e~~“**Extra Length color-coded m**Map” of designated routes, **or the “Designated Routes Up to 129,000 Pound Map,”** which shall accompany the permit, and is available at the overlegal permit office; **and** ports of entry; ~~and highway district offices.~~ *Combination extra-length and excess weight permits are available.* (3-22-00)(    )

**02. Permit Requirements and Special Requirements.** Permits issued for operations

of extra-length, **excess weight, and up to 129,000 pound vehicle** combinations shall be subject to the general requirements of Section ~~2300~~, ~~Conditions and Requirements For Extra Length~~, and to the following special conditions. ~~(8-25-94)( )~~

**a.** The operator of any extra-length, **excess weight, and up to 129,000 pound vehicle** combination, ~~(except triples combinations)~~ shall complete the Off-Track Computation Form to provide internal dimensions of the combination and computation of off-track as evidence of compliance with maximum off-track requirements specified for the designated route being traveled. The completed Off-Track Computation Form, when required, shall be available for inspection by enforcement officers with the permit for the ~~extra-length~~ vehicle combination. When the Off-Track Computation Form is required, permit shall be invalid until the form is completed and available for inspection. ~~(3-20-04)( )~~

**b.** ~~Extra-length p~~Permits shall become automatically invalid subject to conditions cited in IDAPA 39.03.23, "Rules Governing Revocation of Special Permits." ~~(3-22-00)( )~~

**03. Exceeding Allowed Length and/or Off-Track Limitations.** Extra-length, **excess weight, and up to 129,000 pound** vehicle combinations apprehended for exceeding allowed length and/or off-track limitations as set forth in this rule shall be subject to the following course of action: ~~(8-25-94)( )~~

**a.** The vehicle combination will be escorted by the apprehending officer to the first safe parking location; and (8-25-94)

**b.** The driver of the ~~extra-length~~ vehicle combination will be issued a single trip, one (1) day permit via a specified route to the nearest permitted route. The condition of this permit shall require an advance pilot/escort vehicle to escort the extra-length vehicle combination, and the pilot/escort vehicle shall meet the pilot/escort vehicle requirements as set forth in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits." ~~(3-22-00)( )~~

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.22 - RULES GOVERNING OVERLEGAL PERMITS FOR EXTRA-LENGTH VEHICLE COMBINATIONS

DOCKET NO. 39-0322-1302

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes effective on April 1, 2014, after the conclusion of the legislative session if approved by the legislature after review. In accordance with Section 67-5224 and 67-5291, Idaho Code, if the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rulemaking implements the provisions of Senate Bill 1117 and House Bill 322. It provides for an administrative process to add designated routes for vehicle combinations up to 129,000 pounds, including the application, review and analysis, determination, public hearing and appeals. The rule also re-orders information in the rule for improved flow and understanding requirements.

ITD conducted six hearings throughout the state in October for proposed rules to implement the 129,000 pound truck legislation from last session. Modifications were made to address the comments we received from the hearings.

The rule has been modified to:

- Instruct the requestor that they must forward the request form to adjacent local jurisdictions.
- Define the engineering and safety criteria utilized by ITD when reviewing requested routes.
- Identify the possible actions (proceed to hearing, reject, or request additional information) by the ITD Board subcommittee after reviewing the report from the ITD Chief Engineer.
- Include verbiage that hearings are conducted in the ITD districts where the requested route is located and pursuant to the Idaho Administrative Procedures Act, Title 76, Chapter 52, Idaho Code.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 7, 2013 Idaho

Administrative Bulletin, [Vol. 13-8, pages 309 through 314.](#)

**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: There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist - 334-8418.

DATED this 25th day of November, 2013.

Lori Garza, Program Specialist  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State Street

PO Box 7129, Boise ID 83707-1129  
phone - 208-334-8810  
fax - 332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Section 40-312, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

Monday, October 7, 2013, 4:00 to 7:00 p.m. Local Time	
Red Lion Hotel 1555 Pocatello Creek Road Pocatello, ID 83201	Shilo Inn Suites 780 Lindsay Boulevard Idaho Falls, ID 83402
Wednesday, October 9, 2013, 4:00 to 7:00 p.m. Local Time	
Best Western Plus Coeur d'Alene Inn 506 W. Appleway Avenue Coeur d'Alene, ID 83814	Red Lion Hotel 621 21st Street Lewiston, ID 83501
Wednesday, October 16, 2013, 4:00 to 7:00 p.m. Local Time	

**Best Western Plus Twin Falls Hotel**  
**1377 Blue Lakes Boulevard**  
**Twin Falls, Idaho 83301**

**Thursday, October 17, 2013, 4:00 to 7:00 p.m. Local Time**

**Red Lion Hotel**  
**1800 Fairview Avenue**  
**Boise, Idaho 83702**

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 rule-making:

This rulemaking implements the provisions of Senate Bill 1117. It provides for an administrative process to add designated routes for vehicle combinations up to 129,000 pounds, including the application, review and analysis, determination, public hearing and appeals. The rule also re-orders information in the rule for improved flow and understanding requirements.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There are no fees being imposed or increased by this rulemaking.

**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:

There is no fiscal impact to the state general fund.

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes to this rule were necessary to comply with Senate Bill 1064, which codified the routes designated in the 129,000 Pound Pilot Project, and Senate Bill 1117 and House Bill 322, which authorize jurisdictions to consider additional routes for vehicle combinations up to 129,000 pounds when specified criteria has been met. That criteria, based on national standards for engineering and vehicle configuration is not subject to negotiation. Changes to all rules associated with these legislative actions were developed by a sub-committee, led by Idaho Transportation Board Member Jim Kempton, and members appointed by the Board Chairman Jerry Whitehead, which included additional Board Members, ITD staff, ISP staff, and representatives from the Department of Commerce, Idaho Trucking Advisory Council, the Local Highway Technical Assistance Council, and other participants, as needed.

**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 Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

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, 2013**. The comment period has been extended to coincide with the last public hearing date. This date was amended after the publication of the legal notice.

DATED this 8th day of July, 2013.

### LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0322-1302

#### 000. LEGAL AUTHORITY.

This rule, governing the movement of vehicles which are in excess of the sizes allowed by 49-1004, 49-1004A, and 49-1010, is adopted under the authority of Section 40-312, Idaho Code.

~~(4-7-11)~~( )

#### (BREAK IN CONTINUITY OF SECTIONS)

*[Codified Section 200 is being moved and renumbered to proposed Section 300]*

#### **4200. PILOT PROJECT TO EXCEED ONE HUNDRED FIVE THOUSAND, FIVE HUNDRED POUNDS UP TO ONE HUNDRED TWENTY-NINE THOUSAND POUNDS.**

In addition to the previously stated requirements that must be met, vehicles operating at weights in excess of one hundred five thousand five hundred (105,500) pounds, must also meet the following requirements: (3-22-00)

**01. Brakes.** All axles must be equipped with brakes. (3-22-00)

**02. Permits.** Permits will be vehicle specific and will list the axle spacings, number of axles and the gross weight. The state issued permit must be displayed in the lower right hand corner of the windshield. (3-20-04)



**03. ~~Trip Logs~~ **Designated Routes.** ~~Trip logs will be required to be submitted quarterly in a standard format and submitted electronically with the following information:~~ **All designated state approved routes for vehicle combinations to operate at weights above one hundred five thousand five hundred (105,500) pounds will be identified on the “Designated Routes Up to 129,000 Pound Map” which is available at the Idaho Transportation Department.****

~~(3-20-04)( )~~

**a.** ~~Each trip must be listed (a trip is defined as each way unladen or laden);~~ **Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (magenta-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed.**

~~(3-22-00)( )~~

**b.** ~~Date trip occurred;~~ **Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (brown-coded routes). A vehicle combination operating on routes designated for up to ninety-five (95) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed.**

~~(3-22-00)( )~~

**c.** ~~Origin;~~ **Routes for combinations operating on non-state maintained highways (orange-coded routes). Local jurisdictions adding, modifying or deleting non-state maintained routes for vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds shall provide the route information to the department.**

~~(3-22-00)( )~~

~~d. Destination;~~ (3-22-00)

~~e. Route (list each highway traveled);~~ (3-20-04)

~~f. Gross weight of vehicle configuration (unladen or laden); and~~ (3-20-04)

~~g. Unit number.~~ (3-20-04)

**04. ~~Failure to Comply.~~** ~~The motor carrier’s failure to submit trip logs quarterly, as required by Subsection 400.03, will result in the revocation of all pilot project permits issued to the carrier. Upon submission of all delinquent trip logs, new permits may be issued.~~ **Requests for Adding Idaho Transportation Department Maintained Non-Interstate Routes.** **Routes not currently designated to operate at up to one hundred twenty-nine thousand (129,000) pounds may be added as follows:**

~~(3-20-04)( )~~

**a.** **Request Form Submission.** **The request form (ITD form number 4886) will be completed and submitted to the Idaho Transportation Department Office of the Chief Engineer by the requestor.** The requestor will forward the form to the adjacent local jurisdictions. ( )

**b.** **Request Review/Analysis Process.** ( )

**i.** **Once submitted, the request will be reviewed for completeness and the**

department's analysis will be completed for engineering and safety criteria. The criteria shall include assessment of pavement and bridges to allow legal tire, axle, and gross weight limits as per Section 49-1001 and 49-1002, Idaho Code, and route off-track requirements which includes road width and curvature. Additional consideration shall be given to traffic volumes and other safety factors. ( )

ii. Once the analysis is completed, the request will be submitted to the Chief Engineer, who will report to the Idaho Transportation Board Sub-committee. ( )

iii. The Idaho Transportation Board Sub-committee will make a recommendation (proceed to hearing, reject, or request additional information) to the Idaho Transportation Board based upon the department's analysis. ( )

iv. If the Idaho Transportation Board recommends that the request proceed to hearing, it shall instruct the Chief Engineer to schedule a hearing in the district(s) where the requested route is located. The hearing will be conducted pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. ( )

v. The Chief Engineer or designee will conduct the hearing(s) and make a determination after the hearing(s) are held. Following the determination, the Chief Engineer will issue Findings and a Preliminary Order, hereafter referred to as Preliminary Order. ( )

vi. The Department will notify the requestor of the Chief Engineer's Preliminary Order and post to the Idaho Transportation Department Web site. ( )

vii. An appeal of the Preliminary Order may be made pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. The appeal shall be made to the Director of the Idaho Transportation Department. ( )

c. Local Highways Approved for Travel Up to 129,000 pounds. Local routes will be added or removed on the "Designated Routes Up to 129,000 Pound Map" when information and approval is provided to the Department by the local jurisdiction having authority over the local route. ( )

201. -- 299. (RESERVED)

*[Codified Section 300 is being moved and renumbered to proposed Section 400]*

**2300. CONDITIONS AND REQUIREMENTS FOR EXTRA-LENGTH.**

Extra-length vehicle combinations shall be subject to the following conditions, limitations, and requirements: (10-2-89)

**01. Extra-Length Vehicle Combinations.** Vehicle combinations operating with an overall length in excess of the limits imposed in Section 49-1010, Idaho Code, shall consist of not more than four (4) units, shall not exceed one hundred fifteen (115) feet overall and no such

vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang. (3-20-04)

**02. Routes for Extra-Length Operations.** Shall be designated in four (4) categories: (9-4-91)

**a.** Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (blue-coded routes). An extra-length combination operating on routes designated for ninety-five (95) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed by the equation developed by Western Highway Institute (WHI) for computation of maximum vehicular off-track. (4-7-11)

**b.** Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red-coded routes). An extra-length combination operating on routes designated for one hundred fifteen (115) foot combinations shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation referred to above. (3-20-04)

**c.** Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). An extra-length combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy-five (8.75) feet when computed by the WHI equation referred to above. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seventy-five (8.75) feet off-tracking. (3-22-00)

**d.** Selected state highway routes (green coded routes) for operation of an extra-length combination whereby its maximum off-tracking will not exceed three (3) feet on a one hundred sixty-five (165) foot radius when computed by the WHI equation and its overall length including load overhang does not exceed eighty-five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes and traffic operations. (8-25-94)

**03. Power Unit.** The power unit of extra-length combinations shall have adequate power and traction to maintain a minimum of fifteen (15) miles per hour under normal operating conditions on any up-grade over which the combination is operated. (10-2-89)

**04. Connecting Devices.** Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393. (4-7-11)

**05. Weather Restrictions.** Extreme caution in the operation of an extra length vehicle combination shall be exercised when hazardous conditions such as those caused by snow, ice,

sleet, fog, mist, rain, dust, or smoke adversely affect visibility or traction. Speed shall be reduced when such conditions exist. When conditions become sufficiently dangerous, the company or the operator shall discontinue operations and operations shall not be resumed until the extra length vehicle combination can be safely operated. The state may restrict or prohibit operations during periods when in the state's judgment traffic, weather, or other safety conditions make such operations unsafe or inadvisable. (8-25-94)

**06. Trailer Weight Sequence.** In any extra-length combination, the respective loading of any trailer shall not be substantially greater than the weight of any trailer located ahead of it in the vehicle combination. (Substantially greater shall be defined as more than four thousand (4,000) pounds heavier.) (10-2-89)

**07. Operating Restrictions.** Operators of all vehicle combinations governed by this rule shall comply with the following operating restrictions: (8-25-94)

**a.** A minimum distance of five hundred (500) feet shall be maintained between combinations of vehicles except when overtaking and passing. (10-2-89)

**b.** Except when passing another vehicle traveling in the same direction, the combination shall be driven so as to remain at all times on the right hand side of the centerline of a two (2) lane, two (2) way highway, or on the right hand side of a lane stripe or marker of a highway of four (4) or more lanes. (1-1-90)

**c.** Be in compliance with all Federal Motor Carrier Safety Regulations. (3-22-00)

**08. Insurance Requirements.** Every combination operated under this rule shall be covered by insurance of not less than five hundred thousand dollars (\$500,000) combined single limit. The permittee or driver of the permitted vehicle combination shall carry in the vehicle evidence of insurance written by an authorized insurer to certify that insurance in this minimum amount is currently in force. (8-25-94)

**09. Tire Limitations.** Single axles on extra-length vehicle combinations shall be equipped with four (4) tires except on the steering axle, or variable load suspension axles (VLS-lift axles), unless equipped with fifteen (15) inch wide or wider single tires. Multiple axle configurations may be equipped with single tires on each of the axles as long as the pounds-per-inch width of tire does not exceed the limits as listed in Section 49-1002, Idaho Code. (5-8-09)

**301. -- 399. (RESERVED)**

*[Codified Section 400 is being moved and renumbered to proposed Section 200]*

**3400. OVERLEGAL PERMITS FOR EXTRA-LENGTH OPERATIONS.**

**01. Permit Attachments.** All vehicles in extra-length operation shall be allowed to travel under the authority of overlegal permits issued to the power unit. A copy of this rule shall accompany and shall be a part of all annual extra-length permits. An allowable gross loads table

shall accompany and be referred to on the face of the permit. Extra-length operations shall be valid only on routes of the state highway system designated for such purposes as set forth on the extra length color coded map of designated routes which shall accompany the permit, and is available at the overlegal permit office, ports of entry, and highway district offices. Combination extra-length and excess weight permits are available. (3-22-00)

**02. Permit Requirements and Special Requirements.** Permits issued for operations of extra-length combinations shall be subject to the general requirements of Section 200, Conditions and Requirements For Extra-Length, and to the following special conditions. (8-25-94)

**a.** The operator of any extra-length combination, (except triples combinations) shall complete the Off-Track Computation Form to provide internal dimensions of the combination and computation of off-track as evidence of compliance with maximum off-track requirements specified for the designated route being traveled. The completed Off-Track Computation Form, when required, shall be available for inspection by enforcement officers with the permit for the extra-length vehicle combination. When the off-track computation form is required, permit shall be invalid until the form is completed and available for inspection. (3-20-04)

**b.** Extra-length permits shall become automatically invalid subject to conditions cited in IDAPA 39.03.23, "Rules Governing Revocation of Special Permits." (3-22-00)

**03. Exceeding Allowed Length and/or Off-Track Limitations.** Extra-length vehicle combinations apprehended for exceeding allowed length and/or off-track limitations as set forth in this rule shall be subject to the following course of action: (8-25-94)

**a.** The vehicle combination will be escorted by the apprehending officer to the first safe parking location; and (8-25-94)

**b.** The driver of the extra length vehicle combination will be issued a single trip, one (1) day permit via a specified route to the nearest permitted route. The condition of this permit shall require an advance pilot/escort vehicle to escort the extra-length vehicle combination, and the pilot/escort vehicle shall meet the pilot/escort vehicle requirements as set forth in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits." (3-22-00)

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.23 - RULES GOVERNING REVOCATION OF OVERLEGAL PERMITS

DOCKET NO. 39-0323-1301

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-1004, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Amendments to Idaho Code in Senate Bills 1064 and 1117, and House Bill 322 have altered the process for the permitting of loads of up to 129,000 pounds. Those amendments require updates to IDAPA 39.03.23 to specify permit violations that will result in the revocation of an over legal permit and the revocation process.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 7, 2013 Idaho Administrative Bulletin, [Vol. 13-8, pages 315 through 318](#).

**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: There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

DATED this 25th day of November, 2013.

Lori Garza, Program Specialist  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State Street  
PO Box 7129, Boise ID 83707-1129  
phone - 208-334-8810 / fax - 332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

**THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2013**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Sections 40-312 and 49-1004, 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 August 21, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

Amendments to Idaho Code in Senate Bills 1064 and 1117, and House Bill 322 have altered the process for the permitting of loads of up to 129,000 pounds. Those amendments require updates to IDAPA 39.03.23 to specify permit violations that will result in the revocation of an over legal permit and the revocation process.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rulemaking implements the provisions of Senate Bill 1064 and provides continuity of motor carrier operations. Boiler plate language required by the Office of Administrative Rules has been inserted and other updates are included to make the rule consistent with current practice.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There are no fees being imposed or increased by this rulemaking.

**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:

There is no fiscal impact to the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes to this rule were necessary to comply with Senate Bill 1064, which codified the routes designated in the 129,000 Pound Pilot Project, and Senate Bill 1117 and House Bill 322, which authorize jurisdictions to consider additional routes for vehicle combinations up to 129, 000 pounds when specified criteria has been met. Changes to all rules associated with these legislative actions were developed by a sub-committee, led by Idaho Transportation Board Member Jim Kempton, and members appointed by the Board Chairman Jerry Whitehead, which included additional Board Members, ITD staff, ISP staff, and representatives from the Department of Commerce, Idaho Trucking Advisory Council, the Local Highway Technical Assistance Council, and other participants, as needed.

**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 temporary and proposed rule, contact Regina Phipps, Vehicle Size and Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before **October 24, 2013**. This date was amended after the publication of the legal notice.

DATED this 8th day of July, 2012.

### [LSO Rules Analysis Memo](#)

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0323-1301**

**IDAPA 39**  
**TITLE 03**  
**CHAPTER 23**

**39.03.23 - RULES GOVERNING REVOCATION OF ~~SPECIAL~~ OVERLEGAL PERMITS**

**001. TITLE AND SCOPE.**



**01. Title.** This rule shall be cited as IDAPA 39.03.23, “Rules Governing Revocation of Overlegal Permits, IDAPA 39. Title 03, Chapter 23. ( )

**02. Scope.** This rule identifies the circumstances when a permit can be revoked. (+10-2-89)( )

**002. WRITTEN INTERPRETATIONS.**  
There are no written interpretations for this chapter. ( )

**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.” ( )

**004. INCORPORATION BY REFERENCE.**  
There are no documents incorporated by reference in this chapter. ( )

**005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.**

**01. Street And Mailing Address.** The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of PO Box 7129, Boise, ID 83707-1129. ( )

**02. Office Hours.** Daily office hours are 7:30 a.m. to 5 p.m. except Saturday, Sunday and state holidays. ( )

**03. Telephone and Fax Numbers.** The central office may be contacted during office hours by phone at 208-334-8420, 1-800-662-7133 or by fax at 334-8419. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**  
All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. ( )

**0027. -- 009. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. REVOCATION OF PERMIT FOR ~~UNSAFE EQUIPMENT, FOR MOVING VIOLATIONS, OR~~ NON-COMPLIANCE WITH THE LIMITATIONS OR PROVISIONS OF THE PERMIT.**

**01. ~~Invalidation and~~ Disqualification of Permits.** The ~~special~~ permit shall become invalid and the cited vehicle may be disqualified for reissuance of ~~special~~ permits if **convicted of the following:** (+10-2-89)( )

a. The vehicle combination does not satisfy the requirements of Federal Motor Carrier Safety Regulations Part 393. ~~The permit may be restored to the permittee when repairs or corrections are made to the satisfaction of the inspecting officer.~~ (8-25-94)( )

b. ~~The permittee is apprehended exceeding size or weight limits or other provisions specified on the permit.~~ The vehicle combination violates permitting conditions (other than weight) for the following: (10-2-89)( )

- i. Failure to travel on Extra Length or Up to 129,000 Pound designated routes. ( )
- ii. Failure to properly display required flags and/or signs. ( )
- iii. Failure to provide required number of pilot cars and/or proper placement. ( )
- iv. Failure to provide required lighting for travel during hours of darkness. ( )
- v. Failure to travel during the hours of operation as specified on the permit. ( )
- vi. Failure to comply with wind velocity requirements when moving manufactured housing, office trailers and modular buildings. ( )
- vii. Failure to comply when travel conditions become hazardous. Hazardous conditions include, but are not limited to, ice, snow or frost; or when visibility is restricted to less than five hundred (500) feet. ( )

c. ~~The permittee is convicted of violation of size or weight limits (Sections 49-1001 and 49-1010, Idaho Code), of posted speed limits, or of any speed limit specified on the permit, or in violation of any of the following traffic regulations: reckless or inattentive driving, illegal passing or illegal turning movements. Forfeiture of bail shall be treated the same as a conviction for the purpose of this section.~~ The vehicle combination violates weight limits under Section 49-1001 (1)(2) & (9), Idaho Code. (10-2-89)( )

- i. Violating weight limits for single, tandem, tridem, quad, or other type axle groups by more than fifteen percent (15%). ( )
- ii. Violating gross or bridge weight allowances by more than seven percent (7%). ( )

d. ~~The permittee is apprehended during transportation of a manufactured home or office trailer on it's own axles when wind velocity exceeds twenty (20) miles per hour.~~ (8-25-94)

e. ~~The permittee is apprehended while transporting a manufactured home, modular building or office trailer not in compliance with registration or property tax requirements of Section 49-422, Idaho Code.~~ (8-25-94)

f. ~~The permittee, in the case of manufactured home, modular building and office trailer transporters or extra-length operators, is not able to provide proof of insurance.~~

~~Reissuance of the permit may be accomplished by providing satisfactory evidence of insurance to the P.O.E. or other enforcement officer. (8-25-94)~~

~~g. The operator of an extra-length vehicle combination demonstrates non-compliance with Rule 39.03.22, Subsection 200.05, resulting in a spin-out or other loss of traction or control during hazardous road and weather conditions. (12-26-90)~~

~~h. The permitted extra-length vehicle combination is apprehended on state highways not designated for extra-length operations. (10-2-89)~~

**02. Confiscation of Permits Revocation Process.** ~~When a special permit has become invalid because of non-compliance with the limits and provisions on the face of the permit, the apprehending officer may confiscate the permit, and if so, must forward it to the Vehicle Size and Weight Specialist. The movement shall not proceed until a new permit is obtained unless directed by the officer in order to protect the public interest. An exception will allow the officer, in the case of non-compliance with weight distribution as established on the permit, to honor the permit if the permittee can make loading adjustments to satisfy the requirements of the permit. A copy of the judgment of conviction from the court and the overlegal permit authorizing operation must be provided to the Permit Office by enforcement personnel. Paperwork will be reviewed for compliance with the provisions of this rule and, if met, notification will be sent to the company informing them of the pending revocation that will occur within ten (10) days of the letter being issued. (8-25-94)( )~~

**03. Disqualification Periods.** When a permit has become invalid, the vehicle identified on the ~~confiscated~~ invalidated permit may be disqualified for reapplication for permit for a period of thirty (30) days after the first violation, for a period of six (6) months after the second violation, and for a period of one (1) year after the third violation. ~~(10-2-89)( )~~

**04. Penalties.** In addition to revocation of permits as authorized in this rule, the permittee shall be subject to all applicable penalties provided by law with regard to the provisions violated. (8-25-94)

# IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

## 39.03.50 - RULES GOVERNING SAFETY REST AREAS

DOCKET NO. 39-0350-1301

### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This rule prohibits the discharge of firearms at Safety Rest Areas. The department has posted signs prohibiting firearms at Safety Rest Areas. In Senate Bill 1441, 2008 the Legislature completely pre-empted the field of firearm regulation and prohibited state agencies from regulating firearms because it interfered with second amendment rights. Under Idaho Code Section 18-3302J, counties and cities may regulate the discharge of firearms within its boundaries. State agencies, with the exceptions of universities and the Idaho Department of Fish Game, do not have that authority. As a result, this rule must be amended.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 503 through 506](#).

**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: There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Cathy Ford, Roadside Program Administrator, 334-8416.

DATED this 25th day of November, 2013.

Lori Garza, Program Specialist  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State Street  
PO Box 7129, Boise ID 83707-1129

phone - 208-334-8810 / fax - 332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Section(s) 40-312, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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: This rule prohibits the discharge of firearms at Safety Rest Areas. The department has posted signs prohibiting firearms at Safety Rest Areas. In Senate Bill 1441, 2008 the Legislature completely pre-empted the field of firearm regulation and prohibited state agencies from regulating firearms because it interfered with second amendment rights. Under Section 18-3302J, Idaho Code, counties and cities may regulate the discharge of firearms within its boundaries. State agencies, with the exceptions of universities and the Idaho Department of Fish Game, do not have that authority. As a result, this rule must be amended.

**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 this rule must be amended so the rule changes do not lend themselves to negotiation.

**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 Cathy Ford, Roadside Program Admin., 334-8416.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 19th day of August, 2013.

## LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0350-1301

### 001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 39.03.50, "Rules Governing Safety Rest Areas." ( )

02. Scope. The purpose of this rule is to regulate use of and set standards of behavior for all persons using or visiting developed rest areas. (+12-26-90)( )

### 002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. ( )

### 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." ( )

### 004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference in this chapter. ( )

### 005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS -- PHONE NUMBERS.

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise ID 83707-1129. ( )

02. Office Hours. Daily office hours are 8:00 a.m. to 5:00 p.m. except Saturday, Sunday and state holidays. ( )

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8000 or by fax at 208-334-3858. ( )

**04. Idaho Transportation Department District Offices.** Offices are at the following locations: ( )

- a. Idaho Transportation Department District 1**  
Mailing address - 600 W. Prairie, Coeur d'Alene, Idaho 83815-8764  
Office Hours - 7:00 a.m. to 4:00 p.m., Pacific Time Zone  
Phone – (208) 772-1200 ( )
- b. Idaho Transportation Department District 2**  
2600 Frontage Road, Lewiston  
Mailing address - P.O. Box 837, Lewiston, Idaho 83501-0837  
Office Hours - 7:00 a.m. to 4:00 p.m., Pacific Time Zone  
Phone – (208) 799-5090 ( )
- c. Idaho Transportation Department District 3**  
8150 Chinden Blvd., Boise  
Mailing address - P.O. Box 8028, Boise, Idaho 83707-2028  
Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone  
Phone – (208) 334-8300 ( )
- d. Idaho Transportation Department District 4**  
216 Date Street, Shoshone  
Mailing address - P.O. Box 2-A, Shoshone, Idaho 83352-0820  
Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone  
Phone – (208) 886-7800 ( )
- e. Idaho Transportation Department District 5**  
5151 South 5th, Pocatello  
Mailing address - P.O. Box 4700, Pocatello, Idaho 83205-4700  
Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone  
Phone – (208) 239-3300 ( )
- f. Idaho Transportation Department District 6**  
206 North Yellowstone, Rigby  
Mailing address - P.O. Box 97, Rigby, Idaho 83442-0097  
Office Hours - 8:00 a.m. to 5:00 p.m., Mountain Time Zone  
Phone – (208) 745-7781 ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

All records associated with this chapter are subject to and in compliance with the Idaho Public Records Act, as set forth in Sections 9-337 through 9-350, Idaho Code. ( )

**0027. -- 099. (RESERVED)**

**100. SANITATION.**

The following acts are prohibited: (12-26-90)

- 01. Designated Trash Containers.** Failing to dispose of all garbage and trash,

including paper, cans, bottles and other waste materials by either removal from the site or depositing in designated trash containers.

(12-26-90)

**02. Vehicle Refuse or Water.** Draining or dumping refuse or waste from any trailer or other vehicle except in places or receptacles provided. (12-26-90)

**03. Water Facilities.** Cleaning fish or other food, washing clothing or household articles at hydrants or water faucets. (12-26-90)

**04. Water Systems.** Polluting or contaminating water used for human consumption or water systems used for the delivery of such water. (12-26-90)

**05. Comfort Station.** Depositing body waste in or on any portion of a comfort station not intended for that purpose. (12-26-90)

**06. Dumping.** Dumping of household or commercial garbage or trash brought as such from private ~~property~~ off-site into any on-site refuse containers or other refuse facilities. ~~(12-26-90)~~( )

**101. -- 199. (RESERVED)**

**200. PUBLIC BEHAVIOR AND TREATMENT OF PUBLIC PROPERTY.**

The following acts are prohibited: (12-26-90)

**01. Behavior.** Indulging in boisterous, abusive, threatening, or indecent conduct or creating unnecessary noise which interferes with the reasonable use of the area by other visitors. (12-26-90)

**02. Treatment of Natural Features or Plants.** Destroying, defacing, cutting, sampling, or removing any natural feature or plant. (12-26-90)

**03. Treatment of Public Property.** Damaging by defacing, plugging, breaking, or removing any facility, fixture, sign or marker provided for use of the public. (12-26-90)

**04. Donations.** Begging, panhandling, hitchhiking and asking for or accepting donations unless specifically authorized by the Idaho Transportation Department. ( )

**045. Soliciting.** Selling ~~or offering for sale~~ of any merchandise or offering of any service for sexual gratification or monetary gain. ~~(12-26-90)~~( )

**056. ~~Firearms~~ Fireworks/Incendiary Devices.** Discharging ~~firearms~~ or fireworks or any other incendiary device. ~~(12-26-90)~~( )

**067. Noise Producing Devices.** Operating or using any audio devices, including radio, television and musical instrument, and other noise producing devices, such as electrical generator plants and equipment driven by motors or engines, in such a manner and at such times so as to disturb other persons. (12-26-90)



201. -- 299. (RESERVED)

300. OCCUPANCY OF DEVELOPED REST AREAS.

The following acts are prohibited: (12-26-90)

01. **Camping/Occupancy of Site.** ~~Camping or~~ occupying a ~~site~~ rest area for any ~~primary~~ purpose other than ~~resting~~ and ~~refreshing of travelers~~ relaxation from the fatigue of travel. ~~(12-26-90)( )~~

02. **Assembling.** Assembling or attracting groups of people except for public service functions by civic, fraternal or religious organizations as approved by the Department. (12-26-90)

03. **Time Limits.** Remaining in a rest area for a period of time longer than that established by the Idaho Transportation Department. Occupancy of the rest areas on interstate highways is limited to eight (8) consecutive hours. Occupancy of rest areas on other routes of the State Highway System is limited to sixteen (16) consecutive hours. (12-26-90)

04. **Fires.** Building fires outside the confines of ~~a~~ stoves, grills or fireplaces. ~~(12-26-90)( )~~

05. **Failure to Clean.** Failing to clean the ~~place~~ space occupied before departing. ~~(12-26-90)( )~~

06. **Animals.** (12-26-90)

a. Bringing a dog, cat or other animal into a rest area unless it is a certified service animal or crated, caged, leashed or otherwise under physical restrictive control at all times. ~~(12-26-90)( )~~

b. Permitting a dog, cat or other animal to exercise and/or defecate in areas ~~not signed for such purpose~~ outside of specifically designated pet areas. ~~(12-26-90)( )~~

301. -- 399. (RESERVED)

400. VEHICLES.

The following acts are prohibited: (12-26-90)

01. **Rates of Speed.** ~~Driving~~ Operating any motor vehicles ~~at in~~ excessive rates of fifteen (15) mph speed within the confines of a rest area with the exception of acceleration or deceleration ramps. ~~(12-26-90)( )~~

02. **Driving or Parking.** Driving or parking a vehicle or trailer except in places developed for such purpose. (12-26-90)

03. **Careless Driving.** Driving a vehicle carelessly and heedlessly in disregard of the rights or safety of others; or driving at a speed, or in a manner which endangers, or is likely to endanger, any person or property. (12-26-90)

~~04. **Motorbikes/Motoreycles.** Driving motorbikes and motorcycles on trails within developed rest areas. (12-26-90)~~

**054. Paths/Roads/Trails in Rest Areas.** ~~Driving motorbikes, motorcycles, or other motor~~ Operating any vehicles on paths, roads, or trails in developed rest areas for any purpose other than entering or leaving the area, unless specifically allowed by appropriate signage. (12-26-90)( )

**065. Accelerating Engine.** Excessively accelerating the engine of any motor vehicle or motorcycle when such vehicle is not moving or is approaching or leaving ~~a stopping place~~ the rest area. (12-26-90)( )

**06. Skateboards/Rollerblades.** Use of skateboards or rollerblades on sidewalks or in areas primarily intended for use by motor vehicles. ( )

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.04.02 - RULES GOVERNING MARKING OF HAZARDS TO AIR FLIGHT

DOCKET NO. 39-0402-1301

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 21-519, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Amendments to Idaho Code Section 21-515A(4), during 2013 Legislature, included House Bill 216 (BPA Guyed Towers) that exempted power marketing firms from lighting and marking guyed towers, and Senate Bill 1065 (Amateur Radio Towers) that exempted “Ham’ and ‘CB’ radio towers from the requirement to light and mark their guyed towers. These amendments require changes to IDAPA 39.04.02, Rules Governing Marking of Hazards to Air Flight.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 507 through 510](#).

**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: There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Bill Statham, Manager, 334-8784.

DATED this 25th day of November, 2013.

Lori Garza, Program Specialist  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State Street  
PO Box 7129, Boise ID 83707-1129  
phone - 208-334-8810 / fax - 332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

**THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is **July 1, 2013**.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 21-519, 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 16, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rule-making:

Amendments to Section 21-515A(4), Idaho Code, during 2013 Legislature included House Bill 216 (BPA Guyed Towers) that exempted power marketing firms from lighting and marking guyed towers, and Senate Bill 1065 (Amateur Radio Towers) that exempted "Ham" and "CB" radio towers from the requirement to light and mark their guyed towers. These amendments require changes to IDAPA 39.04.02, Rules Governing Marking of Hazards to Air Flight.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule change simply clarifies which entities are exempt from the requirements of lighting and marking guyed towers.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There are no fees being imposed or increased by this rulemaking.

**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: There is no fiscal impact to the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these are required changes to IDAPA 39.04.02. As such, the rules changes do not lend themselves to negotiation.

**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 temporary and proposed rule, contact Bill Statham, Manager, 334-8784.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 19th day of August, 2013.

### **LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0402-1301**

#### **100. REQUIREMENTS.**

**01. Hazardous Structures.** Any structure which obstructs the airspace more than two hundred (200) feet above the ground or water level, or at any height near an established airport as defined by Section 21-101(c), Idaho Code, when determined by the Department to be an aviation hazard or a potential aviation hazard, as defined in Section 21-101(n), Idaho Code, to the safe flight of aircraft shall be plainly marked, illuminated, painted, lighted, or designated in a manner approved by the Department. (4-4-13)

**02. Guyed Towers.** Any temporary or permanent guyed tower fifty (50) feet or more in height that is located outside the boundaries of an incorporated city or town on land that is primarily rural or undeveloped or used for agricultural purposes, or that is primarily desert, and where such guyed tower's appearance is not otherwise governed by state or federal law, rule or regulation, shall be lighted, marked and painted or otherwise constructed to be visible in clear air during daylight hours from a distance of not less than two thousand (2,000) feet. (4-4-13)

**a.** Guyed towers shall be painted in seven (7) equal alternating bands of aviation orange and white. Such alternating bands shall begin with orange at the top of the tower and end with orange at the base. (4-4-13)

**b.** Guyed towers shall have one flashing obstruction light at the top of the tower. Such light shall meet the technical requirements of medium intensity flashing white obstruction light systems as specified in Federal Aviation Administration Advisory Circular AC 70/7460-1K.

(4-4-13)

**c.** For guyed towers the surface area under the footprint of the tower and six (6) feet beyond the outer tower anchors shall have a contrasting appearance with any surrounding vegetation. (4-4-13)

**d.** Guyed towers shall have two (2) marker balls, having a minimum diameter of twenty (20) inches attached to and evenly spaced on each of the outside guy wires. Said spheres to be of the split-sheet, clamp-on type which are to be alternated in two (2) contrasting solid colors of gloss yellow and international orange, and may be constructed of recommended light-weight materials such as fiberglass, aluminum, or foam. (4-4-13)

**e.** Guyed towers shall have a seven (7) foot long safety sleeve colored to contrast with background vegetation at each anchor point and shall extend from the anchor point along each guy wire attached to the anchor point. (4-4-13)

**f.** Any guyed tower that was erected prior to July 1, 2012 shall be marked as required by the provisions of Section 100 before July 1, 2013. Any guyed tower that is erected on or after July 1, 2012 shall be marked as required by the provisions of Section 100 at the time it is erected. (4-4-13)

**g.** The provisions of this Subsection 100.02, shall not apply to power poles or structures owned and operated by an electric supplier as defined in Section 61-332A(4), Idaho Code, to facilities used by a federal power marketing agency to serve public utilities or consumer-owned utilities, or any structure, ~~the whose~~ primary purpose ~~of which~~ is to support telecommunications equipment, including citizens band (CB) radio towers and all other amateur radio towers. (4-4-13)(7-1-13)T

**03. Lines, Wires, and Cables.** Power lines, communication lines, wires, or cable more than two hundred (200) feet above the terrain crossing canyons, rivers, navigable bodies of water, terrain undulations, or guy structures or any height where such wire, cable or obstruction cross navigable bodies of water near established seaplane bases, if determined by the Department to be a hazard to air navigation, shall be marked at two hundred (200) feet intervals of spacing by sphere-type markers having a minimum diameter of thirty-six (36) inches. Said sphere to be of the split-sheet, clamp-on type which are to be alternated in three (3) contrasting solid colors of gloss white, gloss yellow, and international orange and may be constructed of recommended light-weight materials such as fiberglass, aluminum, or foam. (4-4-13)

**04. Spans Between Support Piers.** Long spans that exceed lengths of one-half (1/2) mile between support piers, each pier shall be marked with flashing strobe or beacon lights of a type and brilliance acceptable to the Department if such is deemed pertinent to safety and recognition of obstructions. (4-4-13)

**05. Construction.** Any construction sponsor is required to submit a notice to the Aeronautics Division Administrator if his construction meets one (1) or more of the following conditions: (4-4-13)

**a.** If the proposed object will be more than two hundred (200) feet above ground

level at its location. (4-4-13)

**b.** If the proposed object will be within twenty thousand (20,000) feet of an airport (\*) or seaplane base with a runway of more than three thousand two hundred (3,200) feet in length; and will penetrate an imaginary surface that is one (1) foot in height for each one hundred (100) feet (100:1) horizontally from the nearest point of the nearest runway.

\* To qualify, an airport as defined in Section 21-101(c), Idaho Code, must be listed in the Idaho Airport Facilities Directory, or in the Airport /Facility Directory published by the US-DOT, National Charting Office or operated by a public entity. (4-4-13)

**c.** If the proposed object will be within ten thousand (10,000) feet of an airport having no runway more than three thousand two hundred (3,200) feet in length; and will penetrate an imaginary surface that is one (1) foot in height for each fifty (50) feet (50:1) horizontally from the nearest runway. (4-4-13)

**d.** If the proposed object will be within five thousand (5,000) feet of a heliport listed in the “Airport Facilities Directory” or operated by a public entity; and will penetrate an imaginary surface that is one (1) foot in height for each twenty-five (25) feet (25:1), horizontally from the nearest landing and take-off area of that heliport. (4-4-13)

**e.** If the proposed object is a traverse way which will exceed at least one (1) of the standards listed in Subsections 100.05.a. through 100.05.c. above, after its height is adjusted upward seventeen (17) feet for an Interstate Highway, fifteen (15) feet for any other public roadway, ten (10) feet (or the height of the highest mobile objects that would normally traverse the road) for a private road, twenty-three (23) feet for a railroad, or an amount equal to the height of the highest mobile objects that would traverse a waterway or any other thoroughfare not previously mentioned. (4-4-13)

**06. Notice Submittal.** The notice required under Subsection 100.05 of this rule must be submitted: (1-2-93)

**a.** At least thirty (30) days before the construction or alteration is to begin; or the application for construction permit is to be filed. (11-28-90)

**b.** Immediately by telephone or other expeditious means, with written notification submitted within five (5) days thereafter, if immediate construction or alteration is required as in cases involving public services, health, or safety. (1-2-93))

**07. Notice of Proposed Construction.** A notice of proposed construction or alteration is required so that the Department may: (4-4-13)

**a.** Depict obstructions on aeronautical charts. (11-28-90)

**b.** Identify appropriate markings as required by Section 21-515, Idaho Code. (4-4-13)

**c.** Be made aware of potential aeronautical hazards in order to minimize their danger to the flying public. (11-28-90)

**d.** Protect the lives and property of persons in the air and on the ground. (11-28-90)

**08. Submittal of Notice.** Written notice of intended construction or alteration must be submitted by mail or hand-delivered to the Aeronautics Division Administrator using the contact information in Section 005 of this rule. (4-4-13)

**09. Intent.** It is the intent that the resultant markings required in this rule be compatible with FAA policies and directives in order to maintain consistency of object marking and lighting. (4-4-13)



**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.04.04 - RULES GOVERNING IDAHO AIRPORT AID PROGRAM**  
**DOCKET NO. 39-0404-1301**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is acted on by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 21-105 and 21-111, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Idaho Transportation Department, Division of Aeronautics, Aeronautics Advisory Board, approved new procedures for the administration of the Idaho Airport Aid Program. The new procedures entitled the 'Airport Project Prioritization and Annual Program Allocation' establish a uniform project prioritization methodology and a uniform annual grant program funding allocation methodology. Certain formulas, priorities, percentages, and procedures of the program changes, and require changes to IDAPA 39.04.04.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 511 through 515](#).

**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: There is no fiscal impact to the state general fund.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Bill Statham, Manager, 334-8784.

DATED this 25th day of November, 2013.

Lori Garza, Program Specialist  
Office of Governmental Affairs  
Idaho Transportation Department  
3311 W State Street  
PO Box 7129, Boise ID 83707-1129

phone - 208-334-8810 / fax - 332-4107  
[lori.garza@itd.idaho.gov](mailto:lori.garza@itd.idaho.gov)

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Section 21-105 and 21-111, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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 rule-making:

The Idaho Transportation Department, Division of Aeronautics, Aeronautics Advisory Board, approved new procedures for the administration of the Idaho Airport Aid Program. The new procedures entitled the 'Airport Project Prioritization and Annual Program Allocation' establish a uniform project prioritization methodology and a uniform annual grant program funding allocation methodology. Certain formulas, priorities, percentages, and procedures of the program changes, and require changes to IDAPA 39.04.04.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. There are no fees being imposed or increased by this rulemaking.

**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: There is no fiscal impact to the state general fund.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule change simply establishes a uniform project prioritization methodology and a uniform annual allocation methodology for the grant program funding. It further states grant requirements from Idaho statute. The rule changes do not lend themselves to negotiation.

**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 Bill Statham, Project Manager, 334-8784.

Anyone may submit written comments regarding this proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 19th day of August, 2013.

### LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0404-1301

**007. -- ~~009.~~ (RESERVED)**

#### **010. DEFINITIONS.**

**01. Airport Service Area Population.** The airport service area population is the number of people within the service area boundary based upon the most recent approved census data. An airport's service area is the geographic locale within a thirty (30) minute average drive time from the airport. ( )

**02. Adjusted Service Area Population.** The adjusted service area population is the subject airports service area population reduced by the population within the service area of a nearby 'more developed' airport(s) that overlaps the subject airports service area. The adjusted service area population is used to determine the match rate for Community airport grants. ( )

**011. -- 099. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

#### **200. PROJECT ALLOCATION ~~PRIORITIES~~ PRIORITY PRINCIPLES.**

The discretionary allocation programs will be based on six (6) important principles. These principles are: (1-1-90)( )

**041. Aircraft Operations Safety.** Priority will be given to projects involving safety of aircraft operations. (1-1-90)

**062. Priority Will Be Given to Projects Which Protect Prior Public Investments.**

(1-1-90)

**053. Federal Funds.** Priority will be given to assuring maximum use and benefit of available federal funds. (1-1-90)

**024. Aircraft Landing Projects.** Priority will be given to projects at existing aircraft landing facilities where need is demonstrated. Projects must provide benefits associated with aircraft landing facility utilization on a statewide basis. (1-1-90)

**045. Preservation and Acquisition.** Priority will be given to the preservation and acquisition of existing aircraft landing facilities in danger of being lost. (1-1-90)

**036. Aircraft Landing Development.** Priority will be given to the development of new, additional aircraft landing facilities in areas of greatest need: (1-1-90)

- a. Large geographical areas with no “air accessibility.” (1-1-90)
- b. Additional new sites in urban areas where landing sites are rapidly becoming non-existent. (1-1-90)
- c. Recreational area development where land availability is becoming difficult to obtain. (1-1-90)

**201. -- 299. (RESERVED)**

**300. PROGRAM CRITERIA AND LIMITATIONS.**

The allocation program is designed to provide the greatest and best utilization of limited Idaho Airport Aid Program Funds. The primary goal of the allocation program is to further the proper development of a statewide system of airports and fair distribution of aviation tax money. This policy requires: (5-8-09)

**01. Master Plan.** Each city, county, airport authority, political subdivision, or public corporation, hereinafter referred to as airport sponsor, should have a master plan or an airport or heliport layout plan to be eligible for participation in the allocation program. The plan must be approved by the Division of Aeronautics. (5-8-09)

**02. Percentages of Cost.** Matching percentages must be determined not to exceed the following guidelines, subject to the approval of the Idaho Transportation Board: (1-1-90)

~~a. Municipal governments not eligible for Federal funding assistance that are supporting towns with a population of less than one thousand (1,000), which do not have an airport, may receive up to one hundred percent (100%) of the cost for a minimum standard airport. The airport sponsor shall provide the land required. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided. (5-8-09)~~

~~b. Airport sponsors not eligible for Federal funding assistance that are supporting towns with a population of less than one thousand (1,000) may receive up to ninety percent (90%)~~

~~of the cost for maintenance and upgrade of a minimum standard airport. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided.~~ (5-8-09)

**ea.** Airport sponsors not eligible for Federal funding assistance that ~~are supporting towns with a population of one thousand (1,000) up to~~ **have an adjusted service area population of less than** five thousand (5,000), may receive up to seventy-five percent (75%) of project cost for maintenance and upgrade of an ~~an~~ **minimum standard** airport. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided. (5-8-09)( )

**eb.** Airport sponsors not eligible for Federal funding assistance that ~~are supporting towns with a population of more than five thousand (5,000)~~ **have an adjusted service area population of five thousand (5,000) or more** may receive up to fifty percent (50%) of the cost for maintenance and upgrade of an ~~an~~ **minimum standard** airport. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided. (5-8-09)( )

**ec.** Airport sponsors eligible for Federal funding assistance, may be considered for State funding assistance up to fifty percent (50%) of the sponsor's share when using Federal aid for the cost of maintenance and upgrade of existing facilities. If no Federal participation, each such project shall be considered on its merit. The amount of State financial aid will be negotiated in each case. (5-8-09)

**fd.** All airport sponsors eligible for funding under IDAPA 39.04.04, "Rules Governing Idaho Airport Aid Program," may apply to participate in the maintenance and safety supplies program. This is part of the discretionary allocation program that provides at no charge or a reduced charge for the following such items: (5-8-09)

- i. Runway and taxiway light fixtures, bulbs, and parts; (5-8-09)
- ii. Rotating beacon fixtures; (5-8-09)
- iii. Windsocks, windsock frames and standards; (5-8-09)
- iv. Tie-down chain sets; (5-8-09)
- v. Utility light bulbs; and (5-8-09)
- vi. Taxiway reflectors. (5-8-09)

**ge.** All municipal airport sponsors eligible for funding under IDAPA 39.04.04, may apply to participate in the small projects program which provides grant funding assistance of less than two thousand dollars (\$2,000) for unscheduled or emergency improvements, with approval from the aeronautics administrator, from the current years allocation. (5-8-09)

**03. Face Value Contributions.** Labor and equipment contributions by the airport sponsor may be approved at face value in force-account financial evaluation as matching funds.

The following items will not be eligible for force-account contribution: (5-8-09)

- a. Land values previously acquired. (1-1-90)
- b. Previous building construction or improvements. (5-8-09)
- c. Previous State or FAA grants. (1-1-90)

**04. Public Funds Protection.** In order to protect the investment of public funds, the Idaho Transportation Board may require proof of ownership or lease of all land upon which any project is proposed, and **require** that the airport be zoned to prevent **incompatible land uses and** the creation or establishment of structures or objects of natural growth which would constitute hazards or obstructions to aircraft operating to, from, **on**, or in the vicinity of the subject airport.

~~(5-8-09)~~( )

**05. Applications for Aid.** (5-8-09)

a. Each project submitted for funding consideration from airport sponsors not eligible for Federal funding assistance will be presented in a written application for aid which outlines economic capability and source of funds. The application form will be supplied by the Division of Aeronautics. Eligibility and priority will be determined by an annual revision of a State allocation program for airport improvement. (5-8-09)

b. Each project application submitted for funding consideration from airport sponsors that are eligible for Federal funding assistance will consist of a full and complete copy of the federal application for assistance. (5-8-09)

c. Each request for participation in the maintenance and safety supplies program or the small projects program must be made through written, telephone, or electronic request. (5-8-09)

d. Projects deemed by the Board to require special legislative appropriations will be submitted for legislative support and consideration. (5-8-09)

**06. Projects Other Than Allocation Plan.** All projects other than the annual allocation plan will be individually considered and acted upon at a regular meeting of the Board. All projects will be resolved by eligibility and priorities established by each year's review of the total State need. The availability of funds, or legislative appropriations, shall always be the final determination of grant approvals. Consideration of all factors, including relative needs and priorities involved in an airport construction project will be considered. Attention will be given to effort made at the sponsor's level to assure availability of continuing financing and management support to keep the airport in good repair. (5-8-09)

**07. Granted Allocation Items.** Allocations may be granted for the following items: (1-1-90)

a. Development of required airport planning, land ownership, airspace, land use compatibility, and land use zoning documents. (5-8-09)

- b.** Land acquisition for development and improvement of aircraft landing facilities. (1-1-90)
- c.** Grading and drainage necessary for construction or reconstruction of runways or taxiways. (1-1-90)
- d.** Construction or reconstruction of runways or taxiways. (1-1-90)
- e.** Acquisition of “runway protection zones” as defined in current regulations of the Federal Aviation Administration. (5-8-09)
- f.** Acquisition of easements through or other interests in airspace as may be reasonably required for safeguarding aircraft operations in the vicinity of an aircraft landing facility. (1-1-90)
- g.** Removal of natural obstructions from runway protection zones. (5-8-09)
- h.** Installation or rehabilitation of “segmented circle airport marker systems” as defined in current regulations of the Federal Aviation Administration. (5-8-09)
- i.** Installation or rehabilitation of runway, taxiway, boundary, or obstruction lights, together with directly related electrical equipment. (5-8-09)
- j.** Erection or rehabilitation of appropriate security fencing around the perimeter of an aircraft landing facility. (5-8-09)
- k.** Grading and drainage necessary to provide for parking of transient general aviation aircraft. (1-1-90)
- l.** Air navigation facilities. (1-1-90)
- m.** Such other capital improvements as may be designated by the Board. (1-1-90)
- n.** New building construction of public use facilities such as storage hangars, pilot lounge, rest rooms, etc., that are owned by the airport sponsor. (5-8-09)