

PENDING FEE RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Transportation Committee
63rd Idaho Legislature
Second Regular Session



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2016

SENATE TRANSPORTATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.26 - RULES GOVERNING TEMPORARY VEHICLE CLEARANCE FOR CARRIERS

DOCKET NO. 39-0226-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

The proposed changes bring the rule into alignment with current Idaho Transportation Department fees, terminology, procedures, and administrative processes. The changes have no major impacts on the public or industry.

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 2, 2015, Idaho Administrative Bulletin, **Vol. 15-9, pages 296 - 299**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 49-202, Idaho Code.

In 2009, the Idaho Legislature passed House Bill 334 in which, the legislature made changes to statutory Idaho Transportation Department (ITD) fees. With specific regard to IDAPA 39.02.26, the legislature amended Section 49-202, Idaho Code, which details what fees ITD can collect. Specifically, Section 49-202(m), Idaho Code, changed the fee charged "For issuing letters of temporary vehicle clearance to Idaho-based motor carriers" from ten dollars (\$10) to eighteen dollars (\$18). This change directly impacted IDAPA 39.02.26, therefore the proposed rule change is necessary to reflect the change made in this legislation. The fee change became effective January 1, 2010.

HB 334 made several amendments and in Section 49-202, Idaho Code, modified numerous ITD fees. In total, ITD estimated that all of the changes made to the Department's fees would result in an additional \$13.1 million annually for ITD's State Highway Account. The one-time cost of these fee changes was estimated to be \$72,000; which includes 600 hours of system programming by contractors (\$45,000) and form development/printing (\$27,000). Again, it should be noted that the additional monies generated and the costs associated with the implementation of these changes encompass the modifications made to numerous ITD fees in HB 334 and not simply the amendment of Section 49-202(m), Idaho Code.

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 fee rule, contact Regina Phipps, Vehicle Size and Weight Specialist, (208) 334-8418.

DATED this 8th Day of October, 2015.

Ramon S. Hobdey-Sanchez
Governmental Affairs Program Specialist
Idaho Transportation Department
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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 Section 40-312, Idaho Code and 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 16, 2015.

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:

The proposed changes bring the rule into alignment with current Idaho Transportation Department (ITD) fees, terminology, procedures and administrative processes. The changes have no major impacts on the public or industry.

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

In 2009, the Idaho Legislature passed House Bill 334 in which, the legislature made changes to statutory Idaho Transportation Department (ITD) fees. With specific regard to IDAPA 39.02.26, the legislature amended Section 49-202, Idaho Code, which details what fees ITD can collect. Specifically, Section 49-202(m), Idaho Code, changed the fee charged "For issuing letters of temporary vehicle clearance to Idaho-based motor carriers" from ten dollars (\$10) to eighteen dollars (\$18). This change directly impacted IDAPA 39.02.26, therefore the proposed rule change is necessary to reflect the change made in this legislation. The fee change became effective January 1, 2010.

HB 334 made several amendments and in Section 49-202, Idaho Code, modified numerous ITD fees. In total, ITD estimated that all of the changes made to the Department's fees would result in an additional \$13.1 million annually for ITD's State Highway Account. The one-time cost of these fee changes was estimated to be \$72,000; which includes 600 hours of system programming by contractors (\$45,000) and form development/printing (\$27,000). Again, it should be noted that the additional monies generated and the costs associated with the implementation of these changes encompass the modifications made to numerous ITD fees in HB 334 and not simply the amendment of Section 49-202(m), Idaho Code.

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 proposed rule changes are simple in nature.

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: There are no materials incorporated by reference into this rule.

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, (208) 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 September 23, 2015.

DATED this 29th Day of July, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 39-0226-1501

001. TITLE AND SCOPE.

This rule provides for temporary vehicle clearance (TVC) procedures in Idaho, self issued by selected carriers or issued by the Department via facsimile equipment. (1-2-93)

01. Title. This rule shall be cited as IDAPA 39.02.26, "Rules Governing Temporary Vehicle Clearance for Carriers." IDAPA 39, Title 02, Chapter 26. ()

02. Scope. This rule provides for temporary vehicle clearance (TVC) procedures in Idaho, self issued by carriers or issued by the Department. ()

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 208-334-8611 or by fax at (208) 334-2006. ()

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)

010. DEFINITIONS.

01. Carrier. The person or company who is qualified for ~~operation~~ registration in Idaho, and whose vehicles are issued ~~Temporary Vehicle Clearances~~. (1-2-93)()

02. Temporary Vehicle Clearance (TVC). Temporary clearance issued ~~in lieu of permanent registration~~ for immediate operation of a vehicle pending receipt of credentials. (1-2-93)()

011. -- 099. (RESERVED)

100. ADMINISTRATION.

Temporary Vehicle Clearances, valid for **a maximum of** forty-five (45) days **or to the registration year expiration date**, may be issued to a carrier whose account is in good standing ~~pending receipt by the Department of the registration application or pending receipt of proof of title.~~ (1-2-93)()

101. -- 199. (RESERVED)

200. ISSUANCE OF TVC.

01. Temporary Vehicle Clearances. Carriers may ~~apply for request~~ temporary vehicle clearances ~~on new or replacement vehicles at~~ **online, from the department** or an Idaho port of entry. ~~When all licensing requirements are met, a temporary clearance is transceived from the Department to the port of entry.~~ Fees are payable when the clearance is issued. (1-2-93)()

~~**02. Clearance Issued Electronically.** Clearances may be issued by the Department electronically to business locations selected by the carrier.~~ (1-2-93)

~~**201. SELF ISSUE PERMITS.**~~

~~Companies whose accounts are in good standing and who meet requirements outlined in signed agreements with the Department may purchase temporary vehicle clearances for self issuance to put newly purchased vehicles into service immediately pending receipt by the Department of the registration application. The required agreement is shown in Exhibit A.~~ (1-2-93)

~~**202. TEMPORARY VEHICLE CLEARANCE PENDING PROOF OF OWNERSHIP.**~~

~~**01. Temporary Clearance for Untitled Vehicles.** An Idaho-based carrier may be issued a TVC, upon receipt of all registration fees, when an Idaho title has not been obtained because:~~ (1-2-93)

~~**a.** The vehicle was recently purchased;~~ (1-2-93)

~~**b.** The vehicle was recently transferred from out-of-state and the title application is pending; or~~ (1-2-93)

~~**c.** The vehicle belongs to an owner/operator from another state, is leased to an Idaho carrier and a copy of the out-of-state title is not available.~~ (1-2-93)

~~**02. Second Temporary Vehicle Clearance.** A carrier may be issued a second TVC when written verification of delay in obtaining the Idaho title is received from the carrier.~~ (1-2-93)

~~**2031. CONVERSION OF TEMPORARY VEHICLE CLEARANCE TO PERMANENT IDENTIFICATION ISSUANCE OF VEHICLE REGISTRATION (CAB CARD) AND LICENSE PLATE(S).**~~

~~**01. Conversion to Permanent Identification Issuance of Vehicle Registration & License Plate(s).** A temporary vehicle clearance may be converted to a permanent identification **The vehicle registration and license plate(s) may be issued** when:~~ (1-2-93)()

~~**a.** The **online** application is received by the Department and all licensing requirements are met;~~ (1-2-93)()

~~**b.** The carrier submits a copy of an Idaho title or title receipt showing that the ~~name on the title and the registered owner are the same~~ **vehicle is titled in the owners name;**~~ (1-2-93)()

~~**c.** The carrier submits a copy of the out-of-state title showing that the name on the title and registered owner are the same if the vehicle is leased from out of state.~~ (1-2-93)

~~**02. Permanent Identification.** When all criteria are met, a **permanent** registration and a validation plate and/or sticker shall be issued.~~ (1-2-93)()

20~~4~~². -- 299. (RESERVED)

300. COST AND PAYMENT.

The fee for temporary vehicle clearances issued via facsimile transceiver equipment or self issued by the carrier is ~~ten~~
~~eighteen~~ dollars (\$1~~0~~⁸) per clearance, payable in advance by the carrier. ~~(1-2-93)~~()