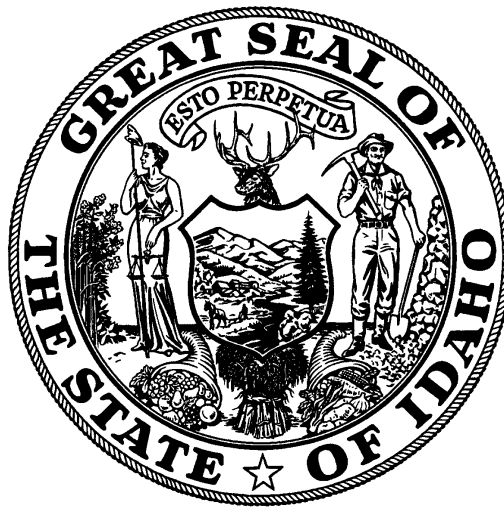


# **PENDING RULES**

## **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 11 - IDAHO STATE POLICE**

### **11.13.01 - THE MOTOR CARRIER RULES**

**DOCKET NO. 11-1301-1501**

#### **NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or as 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 67-2901 and 49-901, 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 pending rule updates the incorporation by reference of the Federal Motor Carrier Safety Regulations found in the Code of Federal Regulations. This rule does not adopt any new federal regulations.

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 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 175-182](#).

**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 negative fiscal impact on the state general fund or dedicated funds.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Capt. Tim Horn, Idaho State Police Commercial Vehicle Safety (208) 884-7220 or [tim.horn@isp.idaho.gov](mailto:tim.horn@isp.idaho.gov).

DATED this 24th day of November, 2015.

Colonel Ralph W. Powell, Director  
Idaho State Police  
700 S. Stratford Dr.  
Meridian, ID 83642  
Tel: (208) 884-7003  
Fax: (208) 884-7090

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

**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2015.

**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 67-2901 and 49-901, 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 21, 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 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 rulemaking:

This rule indicates which version of the Federal Motor Carrier Safety Regulations found in the Code of Federal Regulations that have been adopted by Idaho by indicating the date of the federal rule that was adopted. This rule also revises the formatting for the incorporation by reference of the Code of Federal Regulations for consistency purposes. This rule does not adopt any new federal regulations.

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

This rule clarifies the versions of the Federal Motor Carrier Safety Regulations that have been adopted by Idaho by indicating the date of the rule that has been adopted.

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

No fees are imposed by this rule.

**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 negative fiscal impact on the state general fund or dedicated funds.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because there was no substantive change to the rule and no new federal regulations were adopted.

**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:

All states adopt the Federal Motor Carrier Safety Regulations for interstate transportation; otherwise, a driver would have to comply with different rules in each state. Standardized rules provide for consistent transportation safety nationwide.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Capt. Tim Horn, Idaho State Police Commercial Vehicle Safety (208) 884-7220 or [tim.horn@isp.idaho.gov](mailto:tim.horn@isp.idaho.gov).

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 28, 2015.

DATED this 28th Day of August, 2015.

**LSO Rules Analysis Memo**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1301-1501

**004. INCORPORATION BY REFERENCE (RULE 4).**

~~The Code of Federal Regulations (CFR) is referred to in Sections 012, 018 and 019. Federal Regulations are adopted by reference in Sections 018 and 019. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent recompilations are also adopted by reference, but subsequent amendments are not.~~ In accordance with Section 67-5229, Idaho Code, the following sections of the Code of Federal Regulations, specifically 49 CFR, and 40 CFR are herein incorporated by reference: ~~(3-29-10)~~( )

**01. Safety Fitness Procedures (See Rule 12).** Adoption of Federal Regulations, 49 CFR subtitle, chapter III, subchapter B - Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I, subchapter C- Hazardous Materials Regulations. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recompilations are also adopted by reference, but subsequent amendments are not. ( )

**02. Transportation of Hazardous Materials, Substances, and Wastes (See Rule 18).** Adoption of Federal Regulations, 40 CFR Part 262 and 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, removes that exemption and subjects intrastate carriers to the same requirements. The Department asserts its authority under this Rule, IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-670 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. ( )

**a.** Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 018 are those contained in the compilations of 40 CFR Part 262 published in the Code of Federal Regulations volume dated July 1, 1998, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1998, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. Amendments to the annual volumes are published in the Federal Register pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. ( )

**03. Carrier Safety Requirements (See Rule 19).** Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 386, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. ( )

**a.** Version of Federal Regulations Adopted. The federal regulations adopted by reference in this Section 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 386, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated March 31, 2014. ( )

**04. Availability of Incorporated Documents.** The 49 CFRs can be found on the Federal Motor

Carrier Safety Administration website at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov) or copies may be viewed at the office of the Idaho State Police. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**012. SAFETY FITNESS PROCEDURES (RULE 12).**

**01. Purpose And Scope.** (4-5-00)

**a.** The purpose of Section 012 is to establish procedures to determine the safety fitness of motor carriers, assign safety ratings, take remedial action when required and prohibit motor carriers receiving a safety rating of “unsatisfactory” from operating a commercial motor vehicle: (4-5-00)

i. To provide transportation of hazardous materials for which vehicle placarding is required in accordance with 49 CFR Part 172, subpart F; or (4-5-00)

ii. To transport more than fifteen (15) passengers, including the driver. (4-5-00)

**b.** All provisions of Section 012 apply to all motor carriers subject to the requirement of this subchapter. (4-5-00)

**02. Definitions.** The following definitions apply to Section 012. (4-5-00)

**a.** Applicable safety regulations or requirements. Means 49 CFR subtitle, chapter III. subchapter B- Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I. subchapter C- Hazardous Materials Regulations. ~~The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.~~ Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent recom compilations are also adopted by reference, but subsequent amendments are not. (4-5-00) ( )

**b.** Preventable accident on the part of a motor carrier. Means an accident that: (4-5-00)

i. Involved a commercial motor vehicle, and (4-5-00)

ii. Could have been averted but for an act, or failure to act, by the motor carrier or the driver. (4-5-00)

**c.** Reviews. For the purposes of Section 012: (4-5-00)

i. Compliance review. Means an onsite examination of motor carrier operations, which may be at the carrier’s place of business, including driver’s hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver’s license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness. (4-5-00)

(1) A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints or other evidence of safety violations. (4-5-00)

(2) A compliance review may result in the initiation of an enforcement action. (4-5-00)

ii. Safety management controls. Means the systems, policies programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations which ensure the safe movement of products and passengers through the transportation system, and to reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage. (4-5-00)

- d. Safety ratings. Means, for the purposes of this Section 012: (4-5-00)
- i. Satisfactory safety rating. Means that a motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standard prescribed in Subsection 012.03 of this rule. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier. (4-5-00)
- ii. Conditional safety rating. Means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in Subsection 012.03 of this rule. (4-5-00)
- iii. Unsatisfactory safety rating. Means a motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard which has resulted in occurrences listed in Subsection 012.03 of this rule. (4-5-00)
- iv. Unrated carrier. Means that a safety rating has not been assigned to the motor carrier. (4-5-00)
- 03. Safety Fitness Standard.** The satisfactory safety rating is based on the degree of compliance with the safety fitness standard for motor carriers. To meet the safety fitness standard, the motor carrier shall demonstrate that it has adequate safety management controls in place, which function effectively to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with: (4-5-00)
- a. Commercial driver's license standards violations. (4-5-00)
- b. Inadequate levels of financial responsibility. (4-5-00)
- c. The use of unqualified drivers. (4-5-00)
- d. Improper use and driving of motor vehicles. (4-5-00)
- e. Unsafe vehicles operating on the highways. (4-5-00)
- f. Failure to maintain accident register and copies of accident reports. (4-5-00)
- g. The use of fatigued drivers. (4-5-00)
- h. Inadequate inspection, repair, and maintenance of vehicles. (4-5-00)
- i. Transportation of hazardous materials, driving and parking rule violations. (4-5-00)
- j. Violation of hazardous materials regulations. (4-5-00)
- k. Motor vehicle accidents and hazardous materials incidents. (4-5-00)
- 04. Factors to Be Considered in Determining a Safety Rating.** The factors to be considered in determining the safety fitness and assigning a safety rating include information from safety reviews, compliance reviews and any other data. The factors may include all or some of the following: (4-5-00)
- a. Adequacy of safety management controls. The adequacy of controls may be questioned if their degree of formalization or automation is found to be substantially below the norm for similar carriers. Violations, accidents or incidents substantially above the norm for similar carriers will be strong evidence that management controls are either inadequate or not functioning properly. (4-5-00)
- b. Frequency and severity of regulatory violations. (4-5-00)
- c. Frequency and severity of driver/vehicle regulatory violations identified in roadside inspections.

- (4-5-00)
- d. Number and frequency of out-of-service driver/vehicle violations. (4-5-00)
- e. Increase or decrease in similar types of regulatory violations discovered during safety or compliance reviews. (4-5-00)
- f. Frequency of accidents; hazardous materials incidents; accident rate per million miles; preventable accident rate per million miles; and other accident indicators; and whether these accident and incident indicators have improved or deteriorated over time. (4-5-00)
- g. The number and severity of violations of state safety rules, regulations, standards, and orders applicable to commercial motor vehicles and motor carrier safety that are compatible with Federal rules, regulations, standards and orders. (4-5-00)

**05. Determination of Safety Fitness.** Following a compliance review of a motor carrier operation, the Idaho State Police Commercial Vehicle Safety Program Manager, using the factors prescribed in Subsection 012.04 of this rule, shall determine whether the present operations of the motor carrier are consistent with the safety fitness standards set forth in Subsection 012.03 of this rule. (3-29-10)

**06. Notification of a Safety Fitness Rating.** Following a compliance review, the Idaho State Police Commercial Vehicle Safety Program Manager will determine the safety fitness of a motor carrier and notify the motor carrier and the Department in writing. Notification will include a list of those items for which immediate corrective actions must be taken. (3-29-10)

**07. Motor Carrier Certification.** Upon notification of violations cited in the compliance review and recommendations made to correct violations a motor carrier shall certify to the Idaho State Police Commercial Vehicle Safety Program Manager, within thirty (30) days, whether all corrective actions identified by the safety review have been taken. Certification required by this subsection must be made to the Idaho State Police Commercial Vehicle Safety Program Manager. Failure to certify or falsely certifying under Section 012 of this Chapter will be considered a reporting violation under Section 67-2901B(3), Idaho Code. (4-5-00)

**013. -- 017. (RESERVED)**

**018. TRANSPORTATION OF HAZARDOUS MATERIALS, SUBSTANCES, AND WASTES (RULE 18).**

~~**01. Adoption of Federal Regulations.** Adoption of Federal Regulations 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, removes that exemption and subjects intrastate carriers to the same requirements. The Department asserts its authority under this Rule, IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-670 and 89-170 (see 49 U.S.C. 502(e)(3)), 49 CFR Part 388. (4-5-00)~~

**021. Obligation of Familiarity with Rules.** All interstate and foreign carriers and all intrastate carriers subject to this Rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 018, that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must obtain copies of these federal regulations and make them available to their drivers and other personnel handling hazardous materials, substances or wastes and must familiarize their drivers and other personnel handling hazardous materials, substances or wastes with any regulation pertaining to the particular material, substance or waste that is



transported. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. Failure to be familiar with these federal regulations adopted by reference is a violation of Section 018 of this Chapter for any carrier transporting such cargoes. The federal regulations adopted by reference in this Section 018 have the following subject matter: (4-5-00)

- a. Part 107. Hazardous Materials Program Procedures. (4-5-00)
- b. Part 171. General Information, Regulations and Definitions. (4-5-00)
- c. Part 172. Hazardous Materials Table, special provisions, hazardous materials communications, emergency response information, and training requirements. (3-29-10)
- d. Part 173. Shippers-General Requirements for Shipments and Packaging. (4-5-00)
- e. Parts 174-176. (Not adopted regulations for railroads, aircraft and vessels). (4-5-00)
- f. Part 177. Carriage by Public Highway. (4-5-00)
- g. Part 178. Specifications for packagings. (3-29-10)
- h. Part 179. (Not adopted regulations for rail tanker cars). (4-5-00)
- i. Part 180. Continuing Qualification and Maintenance of Packagings. (3-29-10)

**032. Recognition of Federal Waivers.** Whenever a carrier has applied to a federal agency and been granted a waiver of the packaging requirements of the federal regulations adopted in Subsection 018.01, the federal waiver will also be recognized under these rules. The Department will not administer a program to duplicate consideration or approval of federal waivers on the state level. (4-5-00)

**043. Hazardous Materials.** As used here in Section 018, means a substance or material that the Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce and has designated as hazardous under section 5103 of the Federal hazardous materials transportation law (49 U.S.C. 5103). The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table (see 49 CFR 172.101), and materials that meet the defining criteria for hazard classes and divisions in Part 173 of Subchapter C of Title 49 of the Code of Federal Regulations. (3-29-10)

**054. Hazardous Substances.** As used in this Section 018, means a material, its mixtures or solutions, that is listed in the Appendix A to 49 CFR 172.101 and that is in a quantity in one (1) package that equals or exceeds the reportable quantity (RQ) listed in the Appendix A to 49 CFR 172.101. (3-29-10)

**065. Hazardous Waste.** As used in this Section 018, means any material that is subject to the Hazardous Waste Manifest requirements of the U.S. Environmental Protection Agency. See 40 CFR Part 262. (4-5-00)

~~**07. Version of Federal Regulations Adopted.** The federal regulations adopted by reference in this Section 018 are those contained in the compilations of 40 CFR Part 262 published in the Code of Federal Regulations volume dated July 1, 1998, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1998, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. The CFRs are also available for inspection and copying at the office of the Idaho State Police and the Idaho State Law Library. (4-5-00)~~

**019. CARRIER SAFETY REQUIREMENTS (RULE 19).**

**01. Adoption of Federal Regulations - Exceptions.** *Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388.* (3-30-07)( )

**a.** All interstate and foreign carriers and intrastate carriers, except those carriers listed in Subsection 019.01.b., subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-30-07)

**b.** Intrastate carriers operating commercial motor vehicles transporting property with a GVW, GVWR, GCW or GCWR greater than ten thousand (10,000) pounds and up to twenty-six thousand (26,000) pounds, subject to the authority of the Idaho State Police, must comply with 49 CFR Part 390 Subpart A, Part 391.15, Parts 392, 393, and Part 396.1, 396.3(a), (a)(1), and (a)(2), and 396.5 through 396.9 and the law and rules of the state of Idaho. All intrastate carriers transporting placardable quantities of hazardous material under 49 CFR Part 172, Subpart F and passengers, meeting the definition of a commercial motor vehicle, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-30-07)

**c.** The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. (3-30-07)

**02. Obligation of Familiarity With Rules.** All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: (4-5-00)

- a.** Part 356. Motor Carrier Routing Regulations. (3-29-10)
- b.** Part 365. Rules Governing Application for Operating Authority. (3-29-10)
- c.** Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
- d.** Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)
- e.** Part 385. Safety Fitness Procedures. (3-29-10)
- f.** Part 386.71-84. Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings. (4-11-15)
- g.** Part 387. Minimum Levels of Financial Responsibility. (3-29-10)
- h.** Part 388. Cooperative Agreements with States. (4-5-00)
- i.** Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)
- j.** Part 391. Qualifications of Drivers. (4-5-00)
- k.** Part 392. Driving of Commercial Motor Vehicles. (3-29-10)

- l.** Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)
- m.** Part 395. Hours of Service of Drivers. (4-5-00)
- n.** Part 396. Inspection, Repair and Maintenance. (4-5-00)
- o.** Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)
- p.** Part 398. Transportation of Migrant Workers. (4-5-00)
- q.** Part 399. Employee Safety and Health Standards. (4-5-00)

**03. Recognition of Federal Waivers.** Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-5-00)

~~**04. Version of Federal Regulations Adopted.** The federal regulations adopted by reference in this Section 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated March 31, 2014. (4-11-15)~~

**054. Availability of Incorporated Documents.** The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov) or copies may be viewed at the office of the Idaho State Police. (3-29-10)

**IDAPA 35 - IDAHO STATE TAX COMMISSION**  
**35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0105-1501**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 63-105 and 63-2427, 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 was published in the July 1, 2015 Idaho [Administrative Bulletin, Vol. 15-7, pages 93 through 95](#).

**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 or email [don.williams@tax.idaho.gov](mailto:don.williams@tax.idaho.gov).

DATED this 2nd Day of December 2015.

Don Williams  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7855  
[don.williams@tax.idaho.gov](mailto:don.williams@tax.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, 2015.

**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 63-105 and 63-2427, Idaho Code, and Section 63-22424, 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 July 15, 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 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 rulemaking:

Motor Fuels Tax Rule 110, Calculation of Tax on Gaseous Fuels. This rule provides the method used by the State Tax Commission to apply the motor fuel tax rate to gaseous special fuels required by Section 63-2424(1), Idaho Code. The current rule gives the conversion factor and resulting tax based on the motor fuel tax rate of twenty-five (25¢) cents per gallon. The rule is being changed to remove the specific tax rate and adding the formula to compute the fuel tax on gaseous special fuels.

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

Section 4 of HB 312, passed in the 2015 legislative session, amends the motor fuel tax rate from twenty-five (25¢) cents per gallon to thirty-two (32¢) cents per gallon. Section 17 of the bill gives an effective date of July 1, 2015 for Section 4 of the bill. Section 63-2424(1), Idaho Code, requires that the State Tax Commission provide by rule a method to convert the motor fuel tax so that it can be applied to gaseous special fuels.

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

**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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is required by Sections 63-2402(2) and 63-2424(1), Idaho Code.

**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: NA

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

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 July 22, 2015.

DATED this 1st Day of July, 2015.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-1501**

**110. CALCULATION OF MOTOR FUELS TAX ON GASEOUS SPECIAL FUELS (RULE 110).**  
Section 63-2424, Idaho Code.

**01. In General.** The following applies to gaseous special fuels: (4-11-15)

a. A gaseous special fuel is a special fuel that is a gas at sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute. (4-11-15)

b. A gaseous special fuel may be sold at volumes or weights other than those listed in this section, but, must be converted to the volumes and weights used in this section for reporting purposes to ensure that the gaseous special fuels are taxed at the energy equivalent to a gallon of gasoline. (4-11-15)

**02. Computing Gaseous Special Fuel Tax Equivalents.** *The following equivalents will be used when calculating amounts of gaseous special fuel sold and corresponding tax amounts for motor fuels tax reporting purposes* The gaseous special fuel tax is computed by multiplying the percentage of gasoline gallon energy equivalent times the current gasoline tax rate for each type of gaseous special fuel. Gaseous special fuel distributors are required to report the volumes and tax as required on the fuel distributor form.

Motor Fuel	BTUs per <u>Liquid Gallon or Gallon Equivalent</u>	<u>Tax per liquid gallon</u>	<u>Equivalent Volume per Gasoline Gallon Equivalent (GGE)</u>	<u>Tax per GGE</u>	<u>Volume per Diesel Percentage of Gasoline Gallon Energy Equivalent (DGE)</u>	<u>Tax per DGE</u>
Gasoline	127,000	<del>\$0.25</del>	1 gallon	<del>\$0.25</del>	<del>N/A</del> 100%	<del>N/A</del>
Propane	92,000	<del>\$0.184</del>	<del>1.39</del> 4.25 lbs. or 1 gallon	<del>\$0.25</del>	<del>N/A</del> 72.44%	<del>N/A</del>
Compressed Natural gas (CNG)	<del>N/A</del> <u>127,000 per GGE</u>	<del>N/A</del>	126.67 cu. ft. or 5.66 lbs. @ 60° F	<del>\$0.25</del>	<del>N/A</del> 100%	<del>N/A</del>
Liquefied Natural Gas (LNG)	<del>84,800</del> <u>138,400 per DGE</u>	<del>\$0.167</del>	<del>N/A</del> <u>6.06 lbs.</u>	<del>N/A</del>	<del>6.06 lbs.</del> <u>108.98%</u>	<del>\$0.273</del>
<u>Diesel</u>	<u>138,400</u>	<u>\$0.25</u>	<u>N/A</u>	<u>N/A</u>	<u>1 gallon</u>	<u>\$0.25</u>

(4-11-15)( )

**IDAPA 35 - IDAHO STATE TAX COMMISSION**  
**35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0105-1502**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the following dates unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and of full force and effect upon adoption of the concurrent resolution.

Motor Fuels Tax Rule 280, Refund to Consumers for Nontaxable Uses of Motor Fuels, will be deleted effective January 1, 2017.

Motor Fuels Tax Rule 422, Documentation for Idaho Full-Fee Registrants, will become effective July 1, 2016.

**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 63-105 and 63-2427, 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 was published in the September 2, 2015 Idaho Administrative Bulletin, [Vol. 15-9, pages 288 through 289](#).

**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 or email [don.williams@tax.idaho.gov](mailto:don.williams@tax.idaho.gov).

DATED this 2nd Day of December 2015.

Don Williams  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36 Boise, ID 83722-0410  
(208) 334-7855  
[don.williams@tax.idaho.gov](mailto:don.williams@tax.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 initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 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 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:

Motor Fuels Tax Rule 280, Refund to Consumers for Nontaxable Uses of Motor Fuels. This rule will be deleted. The State Tax Commission will require that International Fuel Tax Agreement (IFTA) licensees must use the Form 75, Idaho Fuels Use Report, to claim refunds of the motor fuel tax when using tax-paid special fuels on nontaxable Idaho roads.

Motor Fuels Tax Rule 422, Documentation for Idaho Full-Fee Registrants. This rule outlines the records an Idaho Full Fee registrant and requires records to be from two sources. The requirement for two sources is being removed in addition to other changes to clarify who is required to follow the record requirements.

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2015, Idaho Administrative Bulletin, [Vol. 15-7, page 96](#).

**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: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, 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 23, 2015.

DATED this 2nd Day of September 2015.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-1502**

271. -- ~~278~~9. (RESERVED)

~~280. REFUND TO CONSUMERS FOR NONTAXABLE USES OF MOTOR FUELS (RULE 280).  
The Idaho Form 75 must be used to claim a fuels tax refund for all nontaxable uses of Idaho tax paid motor fuels, except for refunds claimed by IFTA licensees for nontaxable miles which must be claimed on the licensee's IFTA return. (5-3-03)~~

**(BREAK IN CONTINUITY OF SECTIONS)**



422. DOCUMENTATION FOR IDAHO FULL FEE REGISTRANTS (RULE 422).  
Section 49-439, Idaho Code

**01. Records Required For Idaho Full Fee Registrations.** Registrants must keep records to verify the accuracy of any Idaho Full Fee registration application submitted to the Idaho Transportation Department. ~~These No~~ records ~~must include all summaries and source documents for all registered vehicles, except~~ are required for full fee vehicles registered at less than sixty-two thousand (62,000) lbs. gvwr or those registered at the maximum tier, ~~which is more than of over~~ fifty thousand (50,000) miles per ~~year~~ reporting period. ~~To provide primary and secondary source verification of the distance reported on the application,~~ Registrants must keep records by individual vehicle for each reporting period of July 1st through June 30th, ~~using two (2) of the following recordkeeping options~~ Examples of records include, but are not limited to: (3-29-10)( )

**a. Distance Measuring Devices.** Odometer, hubometer, GPS or perpetual life-to-date readings ~~must be supported by a second source of documentation such as fuel purchases, trip logs, or daily logs.~~ Records must include the date the reading was recorded and the reading. When changing devices, the change must be properly documented. (3-29-10)( )

**b. Daily Trip Logs.** ~~Daily trip logs should show~~ Logs include the date of travel, origin and destination of the trip, and number of miles traveled. ~~Daily trip sheets should be~~ Logs may be supported by load tickets, billing invoices, or other original source documents that can ~~be used as verification of~~ verify miles traveled. (3-29-10)( )

**c. Number of Trip/Round Trip Miles.** ~~This method is used by registrants~~ When making numerous short trips from the same origin to the same destination, records include the origin, destination, and round trip miles. Computations ~~should~~ must be supported by scale tickets, load tickets, a route map, or a Commission approved trip analysis. (3-29-10)( )

**d. Fuel Purchases.** ~~Records of~~ Retail fuel purchases ~~must be supported by~~ are fuel invoices ~~that show with the~~ date, location, quantity, and type of fuel purchased. Bulk fuel records must be sufficient to prove the accuracy of the fuel use. Fuel purchase records ~~should include~~ must show the usage per unit. ~~If fuel purchases are used to determine miles,~~ The records should contain must documentation of how the average miles-per-gallon (MPG) was calculated. (3-29-10)( )

**02. Credit For Off-Road Miles And Documentation Required.** Credit for off-road miles may be given for roads not maintained by a government entity or roads built or maintained by the registrant pursuant to a contract, according to Subsection 292.03 of these rules. These include roads on private property, roads under construction but not open to the public, and may include designated Forest Service roads. Off-road miles must be documented by using odometer readings, maps, contracts, GPS readings, or a Commission approved trip analysis. (3-29-10)

**03. IFTA Licensees with Full Fee Registration.** An International Fuel Tax Agreement (IFTA) licensee with full fee registration must maintain records required by IFTA. ( )

**IDAPA 35 - IDAHO STATE TAX COMMISSION**  
**35.01.05 - IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0105-1503**  
**NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2016 Idaho State Legislature for final approval. The pending rules become final and effective at the conclusion of the legislative session, unless the rules are approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved or rejected in part by concurrent resolution, the rules become 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 pending rules. The action is authorized pursuant to Sections 63-105 and 63-2427, 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 rules and they are being adopted as originally proposed. The complete text of the proposed rule was published in the August 5, 2015 Idaho Administrative Bulletin, [Vol. 15-8, pages 112 through 118](#).

**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 the pending rules, contact Don Williams (208) 334-7855 or email [don.williams@tax.idaho.gov](mailto:don.williams@tax.idaho.gov).

DATED this 2nd Day of December 2015.

Don Williams  
Tax Policy Specialist  
State Tax Commission  
P.O. Box 36 Boise, ID 83722-0410  
(208) 334-7855  
[don.williams@tax.idaho.gov](mailto:don.williams@tax.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 initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code. In addition, rulemaking is authorized by Sections 63-2424, 63-2442A, and 49-439, 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 19, 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:

Motor Fuels Tax Rule 004, Incorporation by Reference. This rule will be changed to update the incorporated references and move the reference to Administrative and Enforcement Rule 110 from Rule 510.

Motor Fuels Tax Rule 115, When the Gasoline Tax Rate Increases, Use Conversion Factor to Adjust Annual Gaseous Fuels Permit Fees. This rule will be deleted. HB 132 passed in the 2015 legislative session eliminated the gaseous fuels permit program and the rule is no longer required.

Motor Fuels Tax Rule 132, Licensed Gaseous Fuel Distributor's Reports. The portions of the rule that refer to the gaseous fuel permit or gaseous fuel decal will be deleted. HB 132 passed in the 2015 legislative session eliminated the gaseous fuels permit program. The gaseous fuel distributor recordkeeping instructions for the gaseous fuel permit program are no longer required.

Motor Fuels Tax Rule 410, Adoption of International Fuel Tax Agreement. This rule will be deleted. When the International Fuel Tax Agreement was incorporated into Rule 004, this rule became unnecessary.

Motor Fuels Tax Rule 510, Application and Reporting of the Petroleum Transfer Fee. Paragraph 7 of this section will be reworded. It needs to be amended since the limited distributors license was included in Section 63-2427C by HB 0043 during the 2015 Legislative session. Paragraph 10 of this section is being deleted because Administrative and Enforcement Rule 110 is referenced incorrectly.

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were required by HB 0132 that was passed during the 2015 Legislative session (Rules 115 and 132); is no longer necessary because of change to another rule (Rule 410); is required to update previously incorporated references (Rule 004); or to make technical corrections to the rule (Rule 510).

**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 Rule 004, INCORPORATION BY REFERENCE:

The International Fuel Tax Agreement is being incorporated by reference because it is adopted by Section 63-2442A(1), Idaho Code.

The International Registration Plan is being incorporated by reference because it is adopted by Section 49-435(1), Idaho Code. The State Tax Commission references the International Registration Plan when giving the record requirements when auditing these registrants as required by 49-439, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Don Williams, (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 August 26, 2015.

DATED this 5th Day of August 2015.

**LSO Rules Analysis Memo**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-1503

**004. INCORPORATION BY REFERENCE (RULE 004).**

Sections 63-2434, 63-2442A, 41-4909, and 49-439, Idaho Code. The following documents are incorporated by reference: ~~(4-11-15)~~( )

**01. Income Tax Administration and Enforcement Rules.** These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," relating to the statutes authorized by Section 63-2434, Idaho Code. 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. ~~(4-11-15)~~( )

**02. International Fuel Tax Agreement.** These rules incorporate the International Fuel Tax Agreement (IFTA) governing documents: the IFTA Articles of Agreement (revised July 1, 2013), the IFTA Procedures Manual (revised January 1, 201~~3~~5), and the IFTA Audit Manual (revised January 20, 201~~3~~2). IFTA is an international agreement between jurisdictions to encourage use of the highway system by uniformly administering fuels use tax laws. The IFTA governing documents are equally binding on all IFTA member jurisdictions and licensees. Motor fuels users licensed or required to be licensed to operate under an Idaho IFTA license must comply with all applicable rules contained in these rules. These documents can be found on the IFTA website at <http://www.iftach.org>. ~~(4-11-15)~~( )

**03. International Registration Plan.** These rules incorporate the International Registration Plan (IRP) governing documents: The IRP Plan (revised January 1, 201~~4~~5) and IRP Audit Procedures Manual (revised July 1, 2013). IRP is an international registration reciprocity agreement. The documents are included to aid the Commission in complying with IRP registration application audits authorized in Chapter 4, Title 49, Idaho Code. These documents can be found on the IRP website at <http://www.irponline.org>. ~~(4-11-15)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

~~**115. WHEN THE GASOLINE TAX RATE INCREASES, USE CONVERSION FACTOR TO ADJUST ANNUAL GASEOUS FUELS PERMIT FEES (RULE 115).**~~

~~Section 63-2424, Idaho Code.~~

~~The following conversion factors for each vehicle weight class should be multiplied by the new tax rate for gasoline found in Section 63-2402, Idaho Code, and rounded to nearest dollar to adjust the annual gaseous fuels permit fees.~~

<b>VEHICLE WEIGHT</b>	<b>CONVERSION FACTOR</b>
<del>Zero (0) to eight thousand (8,000) lbs</del>	<del>- Two hundred thirty eight (238)</del>
<del>Eight thousand and one (8,001) to sixteen thousand (16,000) lbs</del>	<del>- Three hundred fifty seven (357)</del>
<del>Sixteen thousand and one (16,001) to twenty six thousand (26,000) lbs</del>	<del>- Seven hundred fourteen (714)</del>
<del>Twenty six thousand and one (26,001) lbs and above</del>	<del>- Eight hundred thirty three (833)</del>

~~(5-3-03)~~

~~116~~5. -- 119. (RESERVED)

**(BREAK IN CONTINUITY OF SECTIONS)**

**132. LICENSED GASEOUS SPECIAL FUELS DISTRIBUTOR'S REPORTS (RULE 132).**

Section 63-2424, Idaho Code

**01. Monthly Reports.** Every licensed gaseous special 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: (3-20-14)(\_\_\_\_)

a. The total taxable gallons of gaseous special fuels delivered into the supply tank of registered licensed 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 special 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 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. (3-20-14)(\_\_\_\_)

**04. Receipt of Gaseous Fuels.** The special motor fuels tax is not imposed on gaseous special fuels when the fuels are received as defined in Section 63-2403, in Idaho Code. Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the main supply tank of a registered licensed, or required to be registered licensed, motor vehicle. (3-20-14)(\_\_\_\_)

~~**05. 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. 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. (3-20-14)~~

**06. Documentation of Exempt Sales of Gaseous Special Fuels Delivered into Motor Vehicles.** Gaseous special fuels delivered into the fuel supply tank of a registered licensed, or required to be registered licensed, motor vehicle are taxable except for: (3-20-14)(\_\_\_\_)

a. Government. Gaseous special 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 motor fuels tax on gaseous special fuels. In this case, the distributor must record the name of the governmental entity, the license or identification number of the vehicle, and the type of vehicle on the sales document. (3-20-14)(    )

~~*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" or the decal number on the sales document. (3-20-14)*~~

~~*eb. 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 special fuels. Exempt sales of gaseous special fuels 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 special fuels. (3-20-14)(    )*~~

~~*07. 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)*~~

~~*08. 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)~~
- ~~09. **Assessment for Unaccounted for Decals.** 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. (3-20-14)~~
- ~~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. (3-20-14)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

~~401. -- 409. (RESERVED)~~

~~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 IFTA Articles of Agreement (Agreement), Article I, Section R120 Governing Documents (revised January 1, 2013). This section is incorporated by reference. The Agreement, Procedures Manual and Audit Manual are equally binding on all IFTA members jurisdictions and licensees. Motor fuels users who operate under an Idaho IFTA license must comply with all applicable rules contained in these rules. (3-20-14)~~

~~411. — 419. (RESERVED)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

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

[Section 41-4909, Idaho Code](#)

**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. (3-20-14)

**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. (3-20-14)

**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. (3-20-14)

**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 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. Deductions allowed to motor fuel distributors in Section 63-2407, Idaho Code, for casualty loss and the two percent (2%) allowance are not deductions applicable to the Petroleum Transfer Fee. (3-20-14)

**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. (3-20-14)

**07. ~~Licensed Motor Fuel Distributors License and Limited Distributor Licenses.~~** Any person holding a ~~motor fuel distributor’s~~ license issued by the State Tax Commission under ~~Section 63-2427A Chapter 24, Title 63, 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 ~~motor fuel distributor~~ license ~~under Section 63-2427A, Idaho Code,~~ shall apply to the State Tax Commission for a limited ~~distributor~~ license. The limited ~~distributor~~ 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)( )

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



a. ~~Distributors licensed under Section 63-2427A, Idaho Code,~~ A motor fuel distributor 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 distributor 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)

**09. 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)

~~**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

### 39.02.03 - RULES GOVERNING VEHICLE DEALER'S PRINCIPAL PLACE OF BUSINESS

DOCKET NO. 39-0203-1501

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 49-201, 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:

This rule change removes the minimum business-hour requirements for motor vehicle dealers that were added during the 2015 Idaho Legislative Session. It also clarifies a requirement that all vehicle dealers must declare, in writing to the Idaho Transportation Department (ITD), the regular hours that their dealerships are open and when they are available to be contacted by ITD or their customers.

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 2, 2015, Idaho Administrative Bulletin, [Vol. 15-9, pages 293 - 295](#).

**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 the pending rule, contact Amy Smith, Vehicle Service Manager, (208) 334-8660.

DATED this 8th Day of October, 2015.

Ramon S. Hobdey-Sanchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
3311 W State Street  
PO Box 7129  
Boise ID 83707-1129  
Phone: (208) 334-8810  
[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@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 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:

This rule change removes the minimum business-hour requirements for motor vehicle dealers that were added during the 2015 Idaho Legislative Session. It also clarifies a requirement that all vehicle dealers must declare, in writing to the Department, the regular hours that their dealerships are open and when they are available to be contacted by the Department or their customers.

**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(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 3, 2015, Idaho Administrative Bulletin, [Volume 15-6, Page 66](#).

**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 Amy Smith, Vehicle Service Manager, (208) 334-8660.

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 DOCKET NO. 39-0203-1501**

**100. GENERAL PROVISIONS.**

**01. Physical or Electronic Records System Inspection.** A vehicle dealer shall make available all books, records and files maintained at the dealership location for immediate inspection for cause or complaint, or within three (3) business days if records are stored at an approved off-site location for random compliance review by a peace officer or authorized agent of the Department. (3-29-12)

**02. Title Fee Disclosure.** A dealer may reflect the payment of a state-required title fee as specified by Section 49-202(2)(b), Idaho Code, however: (7-2-92)

**a.** The fee must be clearly identified as a "TITLE FEE"; (7-2-92)

**b.** The fee must be shown as the exact amount required by law; (7-2-92)

**c.** Any documentation fees charged must be clearly listed separately from other fees and identified to the customer as dealer document preparation fees that are subject to sales tax as part of the purchase price of the vehicle. (7-2-92)

**03. Surety Bond.** A valid bond in the amount required by Section 49-1608D, Idaho Code, for three (3) years after initially licensed, unless otherwise provided by code; (4-11-15)

**04. Idaho Consumer Asset Recovery (ICAR) Fund.** (4-11-15)

**a.** All licensed dealers shall pay the annual fee as set by the Idaho Consumer Asset Recovery (ICAR) Board as required by Section 49-1608C, Idaho Code, unless otherwise provided by code. (4-11-15)

**b.** The ICAR fund fee shall be set by the ICAR Board annually to be effective the following January 1. Such fee shall be posted on the Department web site and all applicable forms for dealer licensing. (4-11-15)

**05. Liability Insurance.** A valid liability insurance policy as required by Section 49-1608A, Idaho Code. (4-11-15)

**06. Declared Business Hours.** ~~(4-11-15)~~

~~**a.** All licensed dealers shall declare in writing to the Department the regular business hours that their dealerships are open and when they are available to be contacted by the Department or their customers. *These regular business hours shall be no less than twenty (20) hours per week, part of which must be during Monday through Friday 8:00 am to 5:00 pm.* (4-11-15)~~

~~**b.** *Wholesale dealers are required to declare in writing to the Department at least four (4) business hours per week that they are open, part of which must be during Monday through Friday 8:00 am to 5:00 pm, when customers or the department can contact the dealer.* All wholesale dealers shall declare in writing to the department the regular hours that their dealerships are open and when they are available to be contacted by the department or their customers. (4-11-15)( )~~

**07. Vehicle Dealer License Suspension.** Any dealer not meeting the requirements of the Vehicle Dealer Act shall be subject to suspension of an existing dealer license or refusal by the Department to issue a new dealer license. (7-2-92)

**a.** The Department's agent shall give written notice of deficiencies to the dealer or applicant. (12-26-90)

**b.** At its discretion the Department may give the licensed dealership a reasonable amount of time to comply. (12-26-90)

**c.** Upon compliance, the license shall be reinstated or issued. (12-26-90)

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.02.22 - RULES GOVERNING REGISTRATION AND PERMIT FEE ADMINISTRATION

DOCKET NO. 39-0222-1501

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 49-201, 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:

This rule is being changed to: 1) clarify the quarterly reporting of road use fees and ensure IDAPA rule 39.02.22 is in accordance with Section 49-439(7), Idaho Code; 2) provide flexibility to refund money for trip permits if eligible; 3) eliminate delinquent billing processes to match new requirements of payment required before credentials are sent; 4) eliminate fee account billing processes because it is no longer available with the implementation of the cash drawer system, plus, escrow accounts are now available; and 5) to clarify that unpaid amounts owed to the Department may be sent to a collection agency.

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 7, 2015, Idaho Administrative Bulletin, [Vol. 15-10, pages 594 - 598](#).

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

DATED this 6th Day of November, 2015.

Ramon S. Hobdey-Sanchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
3311 W. State Street  
PO Box 7129  
Boise ID 83707-1129  
Phone: (208) 334-8810  
[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@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 initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312 and 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, no later than October 21, 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:

This rule is being changed to:

- 1) Clarify the quarterly reporting of road use fees and ensure IDAPA rule 39.02.22 is in accordance with Section 49-439(7), Idaho Code;
- 2) Provide flexibility to refund money for trip permits if eligible;
- 3) Eliminate delinquent billing processes to match new requirements of payment required before credentials are sent;
- 4) Eliminate fee account billing processes because it is no longer available with the implementation of the cash drawer system, plus, escrow accounts are now available; and
- 5) Clarify that unpaid amounts owed to the Department may be sent to a collection agency.

**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: 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 October 28, 2015.

DATED this 26th Day of August, 2015.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0222-1501**

**100. QUARTERLY ROAD USE FEE REPORTS FOR ANNUAL OVERWEIGHT PERMITS.**

To comply with Section 49-1001, Idaho Code, the customer will make quarterly reports of laden only mileage to the

department for the movements of non-reducible vehicle/loads, at the appropriate permitted weight level of the annual overweight/oversize permits. These fees are in addition to the registration fees *otherwise* required to be paid to the department. Mileage and road use fees for single trip overweight/oversize permits *is determined* are calculated and collected at the time of issuance and are not reported quarterly. (3-19-07)( )

**101. QUARTERLY ROAD USE FEE REPORTING.**

**01. Quarterly Reporting Forms Issued.** The department will issue a quarterly report form to customers for each valid annual overweight/oversize permit issued to them. (3-19-07)

**02. Use of Quarterly Reporting Form.** The customer is required to report each quarter's information on the form provided on or before the due date specified on the quarterly report form, even when reporting zero (0) miles traveled. (3-19-07)( )

**a.** If the customer does not receive a quarterly report form, it is the customer's responsibility to notify the department allowing adequate time to submit the report before the due date. (3-19-07)

**b.** Any report transmitted through the US Postal Service shall be considered filed and received by the department on the date shown by the post office cancellation mark stamped on the envelope or wrapper containing the report. A postage meter cancellation shall not be considered as a post office cancellation mark. (3-19-07)

**c.** If the quarterly report form due date falls on a Saturday, Sunday, or legal holiday, the due date will be extended to the next business day. *In the event the department is late mailing the quarterly report form the due date shall be adjusted by the department.* (11-1-94)( )

**d.** Quarterly reports not submitted will result in the account being suspended. ( )

**03. Information Required on the Quarterly Report Form.** Customers must report the following: (3-19-07)

**a.** The number of laden miles traveled on Idaho highways when operating under an annual overweight/oversize permit with non-reducible vehicles and/or load that exceed eighty thousand (80,000) pounds and/or legal axle weights for the appropriate weight category for the quarter specified on the quarterly report form, rounded to the next full mile; and the road use fee due; and penalty, if the report is filed after the due date. (3-19-07)( )

**b.** Total amount due. (11-20-91)

**c.** Signature and title of company official, and date of report. All reports filed with the department must be signed by an authorized representative of the company/individual in order to be considered a valid report even if zero (0) miles are being reported. (3-19-07)( )

**d.** Address change, if different from quarterly report form. (11-20-91)

**e.** Customer telephone number (3-19-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. REFUNDS.**

**01. Fees Eligible for Refund.** (3-19-07)

**a.** Commercial vehicle registration is eligible for refund when the criteria in Section 49-434, Idaho Code, are met. (3-19-07)

- b. If account has been overpaid, and no other fees are owed to the department. (3-19-07)
- c. Unexpired portion of Idaho based fees are refundable for: (3-19-07)
  - i. A vehicle that has been sold or repossessed; (3-29-10)
  - ii. A vehicle that has been damaged beyond repair; or (3-19-07)
  - iii. A vehicle on which the lease has been terminated. (3-19-07)
  - iv. Other refund requests will be reviewed and approved or denied on a case by case basis. ( )
- 02. Fees Not Eligible for Refunds:** (3-19-07)
  - ~~a.~~ Other jurisdiction's fees are not refundable by Idaho. (3-19-07)( )
  - ~~b.~~ *Temporary trip permits are issued for specific vehicles only and fees are not refundable, nor transferable to other vehicles.* (3-19-07)
- 03. Request for Refunds:** (3-19-07)
  - a. Registrant can make a request for refund of fees from the department. The refund request must include: (3-19-07)
    - i. Proof of sale or repossession of the vehicle; (3-29-10)
    - ii. Proof from the insurance company or law enforcement agency that the vehicle has been damaged beyond repair; or (3-19-07)
    - iii. Proof of lease termination from the leasing company. (3-19-07)
  - b. Request shall be subject to audit as provided in Idaho Code. (3-19-07)
  - c. All refund requests shall be reviewed ~~by a Commercial Vehicle Services supervisor~~ to ensure that all requests are valid and eligible. The Revenue Operations supervisor shall also approve/disapprove refunds. If the refund amount is greater than or equal to one thousand (\$1,000) dollars, a Financial Services manager shall also review and approve/disapprove the request before refund is processed. (3-19-07)( )
  - d. Approval/disapproval shall be indicated by either signature, or electronic approval by means of the department's financial management system. (3-19-07)

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

**~~400. DELINQUENT BILLS FOR NONPAYMENT OF OVERLEGAL PERMITS.~~**

~~**01. Payment Options.** A customer may request overlegal permits to be issued without prepayment. The customer may pay when he picks up the permit at the nearest Port of Entry or at the department. (3-19-07)~~

~~**02. Non-Payment of Overlegal Permits.** If the customer fails to pick up the permit, the permit fee is still due and not dependent upon receipt of the permit, unless customer has requested to cancel the permit prior to the valid date of the permit. (3-19-07)~~

~~**a.** The department will send a billing notice to the customer requesting payment. The amount is due within fifteen (15) days of the date of the notice. (3-19-07)~~

~~**b.** The customer's account will be suspended thirty (30) days after the original billing for non-payment of fees. If the account is suspended, it will be subject to a reinstatement fee of forty dollars (\$40). (3-19-07)~~



~~e. A demand notice will be sent out thirty (30) days after account has been suspended with all the fees due, including original permit amount, and reinstatement fee. (3-19-07)~~

~~d. The customer account will remain suspended if fees are uncollected. After sixty (60) days from the date of suspension, the account will be assigned to a collection agency. (3-19-07)~~

~~401.—499. (RESERVED)~~

~~500. NON-PAYMENT OF FEE ACCOUNT BILLINGS FOR OVERLEGAL PERMITS.~~

~~01. **Fee Accounts.** A customer may opt to have a fee account with the department for convenience of ordering overlegal permits. A fee account may be established by the department for the customer provided that the customer: (3-19-07)~~

~~a. Is not suspended or in revoked status. (3-19-07)~~

~~b. Pays a cash bond or provides a surety bond. The bond shall be equal to the value of permits required for any consecutive three-month period, except that no bond shall be less than one thousand (\$1,000) dollars. (3-19-07)~~

~~02. **Charging.** A customer may “charge” over legal permits to their fee account. (3-19-07)~~

~~03. **Billing Notice.** The department will send a billing notice to the customer on or about the first of each month. The amount is due within fifteen (15) days of the date of the notice. (3-19-07)~~

~~04. **Suspension.** The department will suspend customer account(s) thirty (30) days after the original billing notice date if the account is not paid in full. (3-19-07)~~

~~05. **Second Notice.** The department will send a demand letter for payment to the customer approximately thirty (30) days after the account has been suspended. (3-19-07)~~

~~06. **Collections.** When the department determines the amount is uncollectible, the account will be assigned to a collection agency. (3-19-07)~~

~~501.—599. (RESERVED)~~

~~600. INSUFFICIENT FUNDS.~~

~~Insufficient Funds will be indicated by the abbreviation ISF. (3-19-07)~~

~~01. **Payment With Insufficient Fund Check.** If a customer pays a fee prescribed by law, by check and the check is returned to the department as ISF, the transaction will be cancelled because the fee has not been paid. The department reserves the right to not accept checks from a customer who has written two (2) or more ISF checks within four (4) years to the department. That customer will have to pay with cash, or verifiable check, or credit card. (3-19-07)( )~~

~~02. **Pay the Original Transaction Fees Suspension of Account.** The department will attempt to contact the customer, and allow him to pay the original transaction fees suspend the customer's account until the customer has paid the amount of the ISF check, along with the twenty dollar (\$20) ISF fee. (3-19-07)( )~~

~~03. **Collection.** The department will assign all ISF checks including a twenty dollar (\$20) fee to a credit agency for collection. (3-19-07)~~

~~043. **No Further Transactions.** The department will not complete further transactions with the customer until the customer has paid the amount of the ISF check along with the twenty dollar (\$20) ISF fee. (3-19-07)~~

~~05. Department Reserves the Right to Not Accept Checks. The department reserves the right to not accept checks from a customer who has written two (2) or more ISF checks within four (4) years to the department. That customer will have to pay with cash, or verifiable check, or credit card. (3-19-07)~~

**601. ACCEPTANCE OF CHECKS.**

The department will accept personal checks as form of payment with sufficient proof of identification. If check payment is received by mail, the check will be accepted unless the customer has written two (2) or more ISF checks within four (4) years to the department, per Subsection 600.05~~1~~ of this rule. (3-19-07)( )

**602. CREDIT CARD PAYMENTS.**

The department will accept only Visa or Mastercard ~~payments that do not exceed ten thousand (\$10,000) dollars~~ for any fees due to or purchases from the department. (3-19-07)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**702. REQUIREMENTS FOR REINSTATEMENT OF REVOKED OR SUSPENDED VEHICLE REGISTRATION.**

**01. Revocation.** In the case of a revocation, a registrant must pay all fees due and a forty dollar (\$40) reinstatement fee to be reinstated and must also re-register to resume operating. (3-19-07)( )

**02. Suspension.** In the case of a suspension all fees, reports, and records required prior to the suspension must be provided to the department, including a forty dollars\* (\$40) reinstatement fee to be reinstated. (3-19-07)( )

**703. REQUIREMENTS FOR COLLECTIONS.**

All unpaid amounts owed to the department may be sent to an external collection agency. Collection agencies may charge a fee for their efforts in collection of a debt as per Section 67-2358, Idaho Code. Accounts that have been assigned to a collection agency must pay the collection agency all fees due. The department will not accept the payment once assigned to the collection agency. ( )

~~703~~4. -- 799. (RESERVED)

**800. ENFORCEMENT.**

**01. Delayed Movement.** If the registration of a vehicle is suspended the Ports of Entry shall delay movement of the vehicle until such time as the registrant complies with the condition(s) that caused the suspension. (3-19-07)

**02. Revoked Registrations.** If a registrant's registrations are revoked for failure to respond to a suspension notice, the motor vehicle cannot be operated on Idaho highways until the registrant complies with Section 702 of this rule. Registrants with suspended outstanding balances owed to the department or revoked registrations are not eligible to purchase trip permits. (3-19-07)( )

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.01 - RULES GOVERNING DEFINITIONS REGARDING OVERLEGAL PERMITS

DOCKET NO. 39-0301-1501

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 49-201, 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:

This rule change is necessary so that the Idaho Transportation Department (ITD) is in compliance with the passage of House Bill 70 (HB 70) passed during the 2015 Idaho Legislative Session, and that the rules and statutes affecting ITD are consistent with each other. The passage of HB 70 required a change to the definition of excess weight as well as modifying other definitions.

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 5, 2015, Idaho Administrative Bulletin, [Vol. 15-8, pages 124-128](#).

**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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, (208) 334-8418.

DATED this 26th day of August, 2015.

Ramon S. Hobdey-Sanchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
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Phone: (208) 334-8810

THE FOLLOWING NOTICE WAS PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is July 23, 2015.

**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:** 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 19, 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 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 rulemaking:

This rule change is necessary so that the Idaho Transportation Department (ITD) is in compliance with the passage of HB 70, passed during the 2015 Idaho Legislative Session, and that the rules and statutes affecting ITD are consistent. The passage of HB 70 required a change to the definition of excess weight as well as modifying other definitions.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The change ensures consistency between this administrative rule and the passage of HB 70. It also confers a benefit.

**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 67-5221(j), Idaho Code, negotiated rulemaking was not conducted, because the rule change simply changes and modifies definitions.

**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: NA

**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, (208) 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 August 26, 2015.

DATED this 30th Day of June, 2015.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0301-1501**

**010. DEFINITIONS.**

- 01. Accessories.** Additional parts of the single item load that have been removed to reduce width, length or height. (10-2-89)
- 02. Administrative Cost.** The government's cost of processing, issuing and enforcing a permit. (10-2-89)
- 03. Analysis.** A mathematical study of a vehicle or combination of vehicles and the stress they cause over bridges or specific sections of highways conducted by a professional engineer. (10-2-89)
- 04. Annual.** Twelve (12) consecutive months. (10-2-89)
- 05. Automobile Transporter.** See Idaho Code 49-102. (3-29-12)
- 06. Base Width.** The measurement below the eaves of a manufactured home, modular building or office trailer. (8-24-94)
- 07. Boat Transporter.** See Idaho Code 49-103. (3-29-12)
- 08. Cargo Unit.** A full truck, a semi-trailer, a full trailer, or a semi-trailer converted to a full trailer by means of a dolly or a converter gear mounting a fifth wheel. A dromedary tractor equipped with conventional fifth wheel, not stinger steered, shall be excluded from the definition of a cargo unit. (9-14-92)
- 09. Convoy.** A group of two (2) or more motor vehicles traveling together for protection or convenience. (8-24-94)
- 10. Department.** Idaho Transportation Department. (9-14-92)
- 11. Designated Agent.** An employee or relative of the farmer. (3-29-12)
- 12. Dromedary Tractor.** See Idaho Code 49-105. (3-29-12)
- 13. Economic Hardship.** The loss of a substantial amount of money caused by economic changes. (9-14-92)
- 14. Emergency Movement.** A vehicle or vehicle combination hauling a load traveling to the site of an emergency for the purpose of aiding in eliminating the emergency. (9-14-92)
- 15. Escort Vehicle.** See Pilot Vehicle. (3-29-12)
- 16. Excess Weight.** Vehicle combinations hauling reducible loads operating on Interstate Routes any highway 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) per tandem, not to exceed the weight limit for any group of two (2) or more consecutive axles established by Section 49-1001, Idaho Code, and for the front steer axle not to exceed the manufacturer's load rating per tire or the load rating of the axle or twenty thousand (20,000) pounds per axle; whichever is less. The maximum allowable load for all other vehicle tires shall not ~~to~~ exceed six hundred (600) pounds per inch width of tire for vehicles manufactured after July 1, 1987, or not to exceed eight hundred (800) pounds per inch width of tire for vehicles manufactured prior to that date as established by Section 49-1002, Idaho Code. ~~(8-24-94)~~( )
- 17. Extra-Length.** Any vehicle combination in excess of the legal limits but not more than one hundred fifteen (115) feet as established in Section 49-1010, Idaho Code, which normally haul reducible loads. (3-29-12)
- 18. Extra-Ordinary Hazard.** Any situation where the traveling public's safety or the capacity of the

- highway system is endangered. (9-14-92)
19. **Farm Tractor.** See Idaho Code 49-107. (3-29-12)
20. **Gross Vehicle Weight.** See Idaho Code 49-108. (3-29-12)
21. **Heavily Loaded.** Exceeding legal weight or hauling a load which obstructs the driver's view. (9-14-92)
22. **Heavy Duty Wrecker Truck.** A motor vehicle designed and used primarily for towing disabled vehicles. (9-14-92)
23. **Height.** The total vertical dimension of a vehicle above the ground surface including any load and load-holding device thereon. (9-14-92)
24. **Implement of Husbandry.** See Idaho Code 49-110. (3-29-12)
25. **Incidentally Operated.** See Idaho Code 49-110. (3-29-12)
26. **Legal.** In compliance with the Idaho Code on size and weight. (9-14-92)
27. **Length.** The total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear, exclusive of all overhang and any appurtenances listed in IDAPA 39.03.06, "Rules Governing Allowable Vehicle Size". (3-29-12)
28. **Light Truck.** See Idaho Code 49-121. (3-29-12)
29. **Manufactured Home.** A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401 et seq. Similarly constructed vehicles used permanently or temporarily for offices, advertising, sales, display or promotion of merchandise or services are included in this definition. (8-24-94)
30. **Mobile Home.** A structure similar to a manufactured home, but built to a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code) dated June 15, 1975. (8-24-94)
31. **Modular Buildings.** A facility designed as a building or building section, the construction of which is constructed to standards contained in the Uniform Building Code (UBC), adopted by Section 39-4109, Idaho Code. (8-24-94)
32. **Non-Reducible.** A load that consists of a single piece (a machine and its accessories loaded separately is considered non-reducible also). (8-24-94)
33. **Off-Tracking.** The difference in the path of the first inside front wheel and of the last inside rear wheel as a vehicle negotiates a curve. (8-24-94)
34. **Office Trailer.** See definition of Manufactured Homes. (8-24-94)
35. **Overall Combination Length.** The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s). (8-24-94)

- 36. Overall Length.** The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s) plus any load overhang. (3-29-12)
- 37. Overdimensional.** Any vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)
- 38. Overheight.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)
- 39. Overlegal.** Any vehicle, vehicle combination or load which exceeds the limits established in Idaho Code. (8-24-94)
- 40. Overlegal Permit.** A document issued by the Idaho Transportation Department which authorizes the movement of vehicles or loads on the state highway system in excess of the sizes and weights allowed by Sections 49-1001, 49-1002, or 49-1010, Idaho Code. ( )
- 401. Overlength.** Any load non-reducible in length being hauled or towed that is in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)
- 412. Oversize.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)
- 423. Overweight.** A single vehicle or a vehicle combination hauling or towing a non-reducible load whose weight is in excess of the limits established in Section 49-1001, Idaho Code eighty thousand (80,000) pounds and/or legal axle weights. (8-24-94)( )
- 434. Overwidth.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (8-24-94)
- 445. Pilot Vehicle.** Passenger cars or light trucks equipped as specified in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits". (3-29-12)
- 456. Reducible Load.** A single item or multiple items for transport which could reasonably be repositioned or physically altered so that the load conforms to legal size and weight dimensions. The determination of ability to reduce or reconfigure the load primarily depends on the intended disposition of the contents of the load upon delivery to its destination (i.e. made into smaller pieces). (8-24-94)( )
- 467. Single Axle.** An assembly of two (2) or more wheels whose centers are in one (1) transverse vertical plane or may be included between two (2) parallel transverse planes forty (40) inches apart extending across the full width of the vehicle. (8-24-94)
- 47. Special Permit.** A document issued by the Idaho Transportation Department which authorizes the movement of vehicles or loads on the state highway system in excess of the sizes and weights allowed by Sections 49-1001, 49-1002 or 49-1010, Idaho Code. (8-24-94)
- 48. Steering Axle.** The axle or axles on the front of a motor vehicle that are activated by the operator to directly accomplish guidance or steering of the motor vehicle and/or combination of vehicles. (8-24-94)
- 49. Stinger-Steered.** A truck-tractor semi-trailer combination where the kingpin is located five (5) feet or more to the rear of the centroid of the rear axle(s). (8-24-94)
- 50. Tandem Axle.** Any two (2) axles whose centers are more than forty (40) inches but not more than ninety-six (96) inches apart and are individually attached to or articulated from, or both, a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (8-24-94)

**51. Tridem Axle.** Any three (3) consecutive axles whose extreme centers are not more than one hundred forty-four (144) inches apart, and are individually attached to or articulated from, or both, a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (8-24-94)

**52. Variable Load Suspension Axle.** See Idaho Code 49-123. (3-29-12)

**53. Vocational Vehicle.** A vehicle specifically designed to enable the operator to perform specific tasks none of which are primarily for the purpose of transporting loads. Cranes, loaders, scrapers, motor graders, drill rigs are examples of vocational vehicles. (8-24-94)

**54. Width.** The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding any appurtenances listed in IDAPA 39.03.06, "Rules Governing Allowable Vehicle Size". (3-29-12)



## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.13 - RULES GOVERNING OVERWEIGHT PERMITS

DOCKET NO. 39-0313-1501

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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, 49-201 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:

Idaho Transportation Department (ITD) staff has determined that the current rule governing bridge analysis is antiquated and inadequate. With the current staffing levels and the increased number of overweight vehicles/loads traveling within and through the State, we need more realistic guidelines for the completion of a bridge analysis, when one is required. As well as clarification, whether ITD staff or a third party will be required to complete the bridge analysis. Bridge analysis is required to protect our infrastructure and the safety of the traveling public. ITD has been using similar guidelines, in our normal business practices, for some time now, so this will not be completely foreign or new to the industry.

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 7, 2015, Idaho Administrative Bulletin, [Vol. 15-10, pages 600 - 603](#).

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

DATED this 6th Day of November, 2015.

Ramon S. Hobdey-Sanchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
3311 W. State Street  
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Boise ID 83707-1129  
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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 Sections 40-312, 49-201, 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 October 21, 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:

Idaho Transportation Department (ITD) staff has determined that the current rule governing bridge analysis is antiquated and inadequate. With the current staffing levels and the increased number of overweight vehicles/loads traveling within and through the State, the Department needs more realistic guidelines for the completion of a bridge analysis when one is required, as well as clarification whether ITD staff or a third party will be required to complete the bridge analysis. Bridge analysis is required to protect the State's infrastructure and the safety of the traveling public. ITD has been using similar guidelines in its normal business practices for some time now, so this will not be completely new to the industry.

**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: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2015, Idaho Administrative Bulletin, [Volume 15-7, Page 99](#).

**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 October 28, 2015.

DATED this 26th Day of August, 2015.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0313-1501**

100. GENERAL REQUIREMENTS.

01. **Registration.** Any vehicle hauling or towing non-reducible loads subject to registration, is not required to register for the maximum legal weight it can haul to be eligible for an overweight permit. Farm tractors, ~~road rollers, and road machines~~ off road equipment, etc., are exempt from registration but are not exempt from legal weight limitations. (4-5-00)( )

02. **Overweight Permit Requirements.** Overweight permits will be issued for non-reducible vehicles and/or loads that exceed legal axle weights and/or eighty thousand (80,000) pounds, with weight reduced to a practical minimum, except that a permit may be issued for a machine with an accessory and loaded separately on the transporting vehicle. Vehicles hauling overweight loads will be required to have five (5) or more axles to qualify for an overweight permit. Self-propelled vocational vehicles or vehicles towing overweight loads may have less than five (5) axles to qualify for an overweight permit. (4-5-00)

03. **Variable Load Suspension Axle Requirements.** Any vehicle which is equipped with variable load suspension axles (lift axles) transporting overweight loads shall have ~~at~~ lift axles fully deployed when adjacent axles exceed legal axle weights. (8-25-94)( )

101. -- 199. (RESERVED)

200. MAXIMUM OVERWEIGHT LEVELS FOR ANNUAL OVERWEIGHT/OVERSIZE PERMITS.

01. **Allowable Gross Vehicle Weight.** The gross vehicle weight allowable by overweight permit is subject to the seasonal stability of the roadway and the capacity of the structures on the route of travel. For the purpose of issuing overlegal permits, seven (7) levels of overweight are established, based on the weight formula of  $W = 500((LN/N-1) + 12N + 36)$  and routes for carrying the various levels of overweight are designated by color coding. The Weight Formula ("W") is the maximum weight in pounds (to the nearest five hundred (500) pounds) carried on any group of two (2) or more consecutive axles. "L" is the distance in feet between the extremes of any group of two (2) or more consecutive axles. "N" is the number of axles under consideration. The load factor based on the most critical bridge on the highway route will also be used in determining allowable weights. (3-30-01)( )

a. Red Routes -- The red routes contain posted bridges and require approval or analysis from the Department. A vehicle configuration may be issued an annual overweight/oversize permit for travel on red routes only, upon completion of an analysis verifying the requested weights are acceptable. The annual permit will be issued for a specific vehicle configuration, operating on a specific route, at specific weights. All information will be listed on the annual permit and will be subject to revocation at such time the vehicle configuration changes (such as axle spacings), the approved weights change, or a bridge rating changes. Annual permits issued for red routes will be in addition to the annual permit required for other routes. (8-4-95)

b. Yellow Routes -- The yellow overweight level is based on a single axle loading of twenty-two thousand five hundred (22,500) pounds, a tandem axle loading of thirty-eight thousand (38,000) pounds, and a tridem axle loading of forty-eight thousand (48,000) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 560 ((LN/N-1) + 12N + 36)$ . (8-25-94)

c. Orange Routes -- Orange overweight level is based on a single axle loading of twenty-four thousand (24,000) pounds, a tandem axle loading of forty-one thousand (41,000) pounds, and a tridem axle loading of fifty-one thousand five hundred (51,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 600 ((LN/N-1) + 12N + 36)$ . (3-30-01)

d. Green Routes -- The green overweight level is based on a single axle loading of twenty-five thousand five hundred (25,500) pounds, a tandem axle loading of forty-three thousand five hundred (43,500) pounds, and a tridem axle loading of fifty-four thousand five hundred (54,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 640 ((LN/N-1) + 12N + 36)$ . (8-25-94)

e. Blue Routes -- Blue overweight level is based on a single axle loading of twenty-seven thousand (27,000) pounds, a tandem axle loading of forty-six thousand (46,000) pounds, and a tridem axle loading of fifty-

seven thousand five hundred (57,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 675 ((LN/N-1) + 12N + 36)$ . (3-30-01)

f. Purple Routes -- The purple overweight level is based on a single axle loading of thirty thousand (30,000) pounds, a tandem axle loading of fifty-one thousand five hundred (51,500) pounds, and a tridem axle loading of sixty-four thousand five hundred (64,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 755 ((LN/N-1) + 12N + 36)$ . (3-30-01)

g. Black Routes -- The black overweight level is based on a single axle loading of thirty-three thousand (33,000) pounds, a tandem axle loading of fifty-six thousand (56,000) pounds, and a tridem axle loading of seventy thousand five hundred (70,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 825 ((LN/N-1) + 12N + 36)$ . (8-25-94)

02. **Vehicles or Loads Exceeding Annual Permitted Weights.** Vehicles or loads exceeding the axle weights, groups of axle weights, or total gross weights allowed on any of the overweight levels described in Subsection 200.01 must operate by single trip permits only if approved. (4-5-00)( )

03. **Maximum Tire Weights.** The maximum overweight levels shall not exceed eight hundred (800) pounds per inch width of tire ~~nor the maximum weights authorized by Subsection 200.01.~~ (4-5-00)( )

04. **Map Resources.** Route capacity maps are available at the Idaho Transportation Department Headquarters Overlegal Permit office, Ports of entry, and ~~all District Offices~~ online at <http://itd.idaho.gov/dmv/poe/poe.htm>. A route capacity map will accompany each annual overweight/oversize permit. (4-5-00)( )

~~05. **Weight Formula.** "W" is the maximum weight in pounds (to the nearest five hundred (500) pounds) carried on any group of two (2) or more consecutive axles. "L" is the distance in feet between the extremes of any group of two (2) or more consecutive axles. "N" is the number of axles under consideration and "F" is the load factor most appropriate based on the most critical bridge on the highway route.~~ (8-25-94)

~~201. -- 299. (RESERVED)~~

~~300. **ADDITIONAL WEIGHT ABOVE ALLOWED MAXIMUMS.** Increased loading of weight above the maximum weights in this rule may be allowed for wide axles, extra tires or both. Increased loading requires Department approval based on an engineering analysis.~~ (8-25-94)

~~301. — 399. (RESERVED)~~

~~400. **OVERLEGAL PERMIT FOR LOADS IN EXCESS OF MAXIMUM WEIGHT LIMITS OVERWEIGHT PERMITS REQUIRING BRIDGE ANALYSIS.**~~

~~Requests to transport vehicles and/or loads at weights in excess of the maximum weights normally allowed on a routine basis will require, at a minimum, an additional review and approval from the overlegal permit office and may require an engineering analysis when structures are involved on the route(s) to be traveled. The Department may waive the requirement for engineering analysis provided sufficient prior analyses for similar loadings have been performed by the Department for the involved structures. The Department may take up to twenty-four (24) working hours to approve or deny the request when a simple analysis is required. The following information may be requested, to be provided to the overlegal permit office when an in-depth engineering analysis is required:~~

~~(4-5-00)( )~~

01. **Drawing of Vehicle.** A schematic drawing or other specific information with regard to placement of axles, distance between axles and/or wheels, and distribution of gross weight on axles and/or wheels. (10-2-89)

~~02. **Required Information.** The applicant shall provide the Department the information required for conducting the analysis as soon as possible. A minimum of two (2) weeks shall be expected prior to approval or denial of the proposed move.~~ (1-3-92)

~~03. **Engineering Analysis Fee.** The applicant shall deposit one hundred dollars (\$100) with the Department as a deposit on the cost required to undertake the engineering analysis of the vehicle combination.~~

~~(8-25-94)~~

~~**04. Additional Fee for Movement Requiring an Inspector.** At the time a permit is issued which requires an inspector, the issuing office shall require a deposit of one hundred dollars (\$100) in addition to permit fee. This deposit shall be applied to the cost incurred by the Department in furnishing the inspector with vehicle and equipment necessary in the inspection surveillance.~~

~~(8-25-94)~~

**401. -- 499. (RESERVED)**

**500. BRIDGE ANALYSIS CRITERIA AND TIME FRAMES.**

The Department may take up to five (5) business days for an analysis on a vehicle or vehicle combination not in excess of two hundred fifty thousand (250,000) pounds and up to ten (10) business days for an analysis on a vehicle or vehicle combination over two hundred fifty thousand (250,000) pounds. Up to ten (10) business days will also be used for the review process of an analysis done by a third party. The following criteria will be used to determine bridge analysis work and whether it is to be completed by the Department or a qualified and pre-approved third party. If a third party is required, the applicant is responsible for finding, initiating and paying for the cost of that analysis.

( )

**01. Vehicle Combinations in Excess of Eight Hundred Thousand (800,000) Pounds.** Vehicle combinations in excess of eight hundred thousand (800,000) pounds will be required to have a third party complete the bridge analysis. The analysis will then be reviewed by the Department for final approval or denial. ( )

**02. Preliminary Information or Bid Work.** When a permit request is placed and paid for, the Department will complete the analysis, otherwise a third party will be required to complete the bridge analysis. An analysis completed by a third party may be used when a permit request is made and it will be reviewed by the Department for final approval or denial. ( )

**03. Overweight Permit Requests with Multiple Configurations.** Requests made to analyze multiple vehicle configurations for a specific route to determine which vehicle combination will be approved requires the analysis to be completed by a third party. The analysis will then be reviewed by the Department for final approval or denial. ( )

**04. Overweight Permit Requests with Multiple Routes.** Requests made to analyze multiple routes for a specific vehicle combination in order to determine which route will be approved requires the analysis to be completed by a third party. The analysis will then be reviewed by the Department for final approval or denial. ( )

**05. Extenuating Circumstances.** The department may under extenuating circumstances require that a bridge analysis be completed by a third party. ( )

~~**4501. -- 999. (RESERVED)**~~

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.16 - RULES GOVERNING OVERSIZE PERMITS FOR NON-REDUCIBLE VEHICLES AND/OR LOADS

DOCKET NO. 39-0316-1501

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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, 49-201 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:

This rule change will improve efficiency for motor carriers by allowing them to haul more than one non-reducible item on a 53-foot trailer on certain routes. This rule states the maximum sizes allowed by an overlegal permit. This proposed rule change includes:

- 1) Clarify in Section 100 which types of loads will be permitted as non-reducible and that those loads may be hauled on a 53-foot trailer on the majority of routes in Idaho;
- 2) Clarify in Section 200 that vehicles hauling reducible-height loads must be of legal dimensions for the highway of travel;
- 3) Remove language in Section 300.01 that is not needed because it is in Section 300.03 and
- 4) Remove language in Section 400 that pertains to self-issue permits with a fee account (monthly billings for permits) because fee accounts will be eliminated after the implementation of the new cash drawer and the availability of escrow accounts.

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 2, 2015, Idaho Administrative Bulletin, [Vol. 15-9, pages 300 - 302](#).

**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 the pending 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  
3311 W State Street  
PO Box 7129  
Boise ID 83707-1129  
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[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@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 23, 2015.

**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, and Sections 49-201 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 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 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 rulemaking:

This rule change will improve efficiency for motor carriers by allowing them to haul more than one non-reducible item on a 53-foot trailer on certain routes. This rule states the maximum sizes allowed by an overlegal permit. The proposed rule changes: 1) Clarify in Section 100 which types of loads will be permitted as non-reducible and that those loads may be hauled on a 53-foot trailer on the majority of routes in Idaho; 2) Clarify in Section 200 that vehicles hauling reducible-height loads must be of legal dimensions for the highway of travel; 3) Remove language in Section 300.01 that is not needed because it is in Section 300.03 and 4) Remove language in Section 400 that pertains to self-issue permits with a fee account (monthly billings for permits) because fee accounts will be eliminated after the implementation of the new cash drawer and the availability of escrow accounts.

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

**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: NA

**NEGOTIATED RULE-MAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule change is temporary.

**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: NA

**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, (208)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 23, 2015.

DATED this 29th Day of July, 2015.

**LSO Rules Analysis Memo**

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0316-1501

100. GENERAL OVERSIZE LIMITATIONS.

01. **Maximum Dimensions Allowed.** The maximum dimensions of oversize vehicles or oversize loads shall depend on the character of the route to be traveled: width of roadway, alignment and sight distance, vertical or horizontal clearance, and traffic volume. (3-29-12)

02. **Practical Minimum Dimension of Load.** Oversize loads shall be reduced to a practical minimum dimension. Except ~~as~~ **where** noted below, permits will not be issued to exceed legal size if the load is more than one (1) unit in width, ~~length or~~ height, or length which results in them exceeding legal overhang. ~~nor shall~~ **Additionally,** permits **shall not** be utilized for multiple unit loads which may be ~~reduced in number of units and~~ re-positioned to meet legal dimensions established in Section 49-1010, Idaho Code. (8-25-94)( )

03. ~~Multiple Unit~~ **Overwidth Loads on Single or Double Trailers.** ~~Multiple unit overwidth loads must be transported on legal dimension vehicles. Overwidth~~ **Non-reducible** loads may be transported on double trailer combinations not exceeding seventy-five (75) feet combination length **and single trailers not exceeding fifty-three (53) feet** exclusive of load overhang. (4-2-08)( )

04. **Overwidth Overhang.** Over width loads shall distribute overhang to the sides of the trailer as evenly as possible. (8-25-94)

(BREAK IN CONTINUITY OF SECTIONS)

300. OVERWIDTH HAULING VEHICLES, RESTRICTIONS.

01. **Width of Hauling Equipment.** Overlegal permits may be issued for ten (10) foot wide trailers hauling non-reducible loads smaller than ten (10) feet wide. ~~Overlegal permits shall not be issued for trailers over ten (10) feet wide hauling any load on an overwidth vehicle unless such vehicle has been designed and constructed for the specific purpose of hauling a particular load the nature of which makes it impractical to be hauled on a legal width vehicle.~~ The permit issued for oversize loads being hauled on oversize equipment will be valid for the unladen movement and the laden movement, which shall not include commodities either to or from the point of loading or unloading of the oversize load. (3-29-12)( )

02. **Load Dimensions.** Any load exceeding the dimensions of the trailer shall be non-reducible in size, and any load exceeding legal allowable weight shall be non-reducible in weight. Annual permits issued for such hauling vehicles shall be subject to the requirements and limitations of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," and 39.03.13, "Rules Governing Overweight Permits," Section 200. (3-29-12)

03. **Hauling Equipment in Excess of Ten Feet.** Special overwidth hauling vehicles exceeding ten (10) feet in width will be permitted, and may be required, in the hauling of excessively heavy loads to improve the lateral distribution of weight, or when a combination of weight, width, or height makes extra width in the hauling vehicle desirable in the public interest. The use of such vehicles more than ten (10) feet in width shall be restricted to loads requiring an overwidth hauling vehicle and the backhaul permit shall be for the unladen vehicle. (10-2-89)

04. **Buildings.** Buildings which are too wide to be safely transported on legal-width hauling vehicles shall be moved either on house moving dollies or on trailers which can be reduced to legal width for unladen travel. (10-2-89)

301. -- 399. (RESERVED)



**400. OVERWIDTH PERMITS FOR IMPLEMENTS OF HUSBANDRY.**

**01. Farm Tractors on Interstate Highways.** Farm tractors transported on Interstate Highways are required to have overlegal permit authority if width exceeds nine (9) feet. A farm tractor when attached to an implement of husbandry or when drawing an implement of husbandry shall be construed to be an implement of husbandry and is not required to have a permit. Farmers, equipment dealers or custom operators may be issued single trip or annual permits under this rule for transportation of farm tractors, having a width in excess of nine (9) feet to or from a farm involving Interstate Highway travel. The transportation of farm tractors or implements of husbandry for hire, or not being transported from one farm operation to another, is a common-carrier operation. Exemptions from legal width limitation do not apply to common-carrier operations. Farm tractors or implements of husbandry hauled for hire, or used in the furtherance of a business (not to include farming operations), are subject to the same overlegal permit regulations as other oversize loads when the width of the load exceeds legal-width limitations, and must operate under oversize permits. (3-30-01)

**02. Other Than Farm to Farm.** Implements of husbandry exceeding eight (8) feet six (6) inches in width being transported other than from one (1) farm operation to another farm operation shall require overlegal permits except when the farmer or their designated agent is transporting implements of husbandry and equipment for the purpose of: (3-29-12)

**a.** The repair or maintenance of such implements of husbandry and equipment when traveling between a farm and a repair or maintenance facility during daylight hours; or (3-29-12)

**b.** The purchase or sale of such implements of husbandry or equipment when traveling between a farm and a dealership, auction house, or other facility during daylight hours. (3-29-12)

**03. Farm Permits.** Single trip permits must be ordered at the permit office ~~and the operator may post a security bond to establish credit (See IDAPA 39.03.21, "Rules Governing Overlegal Permit Fees," Section 300) and thereby qualify to complete an application form, call the overlegal permit office for a permit number, and carry the application form with the overwidth vehicle in lieu of the overlegal permit form.~~ Under provisions of IDAPA 39.03.19, "Rules Governing Annual Overlegal Permits," Section 100, annual permits will be issued to towing units or to self-propelled farm tractors or towed units, or blanket permits may be issued to an Idaho domicile applicant without vehicle identification. Such blanket permits may be transferred from one vehicle to another vehicle but shall be valid only when the permit is with the overwidth vehicle and/or load. A photocopy of the permit is valid provided that the Pilot/Escort Vehicle and Travel Time Requirements Map and Vertical Clearance of Structures Map furnished by the Idaho Transportation Department are included. Such annual permits for implements of husbandry or farm tractors are subject to the same maximum dimensions, travel time exclusions and safety requirements as other overwidth annual permits and are valid for continuous travel for twelve (12) consecutive months. ~~(3-29-12)( )~~

**04. Overwidth Farm Trailers.** Trailers or semi-trailers exceeding eight feet six inches (8' 6") wide, but not wider than the implement of husbandry, used for the transportation of implements of husbandry from a farm to a farm for agricultural operations, shall be exempt from overlegal permitting requirements. This exemption does not apply to trailers or semi-trailers used in common carrier operations, hauling for hire or used in the furtherance of a business (not to include farming operations). (3-20-04)

**a.** Exempt trailers, as listed above, may not be used to haul implements of husbandry that are narrower than the overwidth trailer. (3-20-04)

**b.** Empty trailers, as listed above, being used to pick up or drop off an implement of husbandry from a farm to a farm are also exempt and must be reduced to a practical minimum dimension (i.e. dropping side extensions). (3-20-04)

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**  
**39.03.17 - RULES GOVERNING PERMITS FOR MANUFACTURED HOMES,**  
**MODULAR BUILDINGS, AND OFFICE TRAILERS**

**DOCKET NO. 39-0317-1501**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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 49-201, 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:

The rule change authorizes anyone transporting a load up to 16' wide to do so using an annual permit rather than having to purchase a single trip permit as currently required. Industry representatives asked the Department to increase the allowable load widths that can be transported using an annual permit from the 14' 6" that is currently authorized, to 16'.

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 7, 2015, Idaho Administrative Bulletin, **Vol. 15-10, pages 604 - 609**.

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

DATED this 6th Day of November, 2015.

Ramon S. Hobdey-Sanchez  
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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 August 20, 2015.

**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 49-201, 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 21, 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 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 rulemaking:

The rule change authorizes anyone transporting a load up to sixteen (16) feet wide to do so using an annual permit rather than having to purchase a single trip permit as currently required. Industry representatives asked the Department to increase the allowable load widths that can be transported using an annual permit from the fourteen feet six inches (14' 6") that is currently authorized to sixteen (16) feet.

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

**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 the rule change is temporary.

**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: NA

**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, (208) 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 28, 2015.

DATED this 26th Day of August, 2015.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0317-1501**

**100. REGISTRATION AND LICENSING REQUIREMENTS.**

All manufactured homes ~~and office trailers~~ moved on their own axles on any public highway are required to be

licensed, permanently or temporarily, with the exception of, new manufactured homes, being transported either prior to first sale at retail or to the initial setup location of the original purchaser. The manufactured home ~~and office trailer~~ registration (if required) and general property tax receipt shall be made available for inspection upon demand of any enforcement officer. ~~(3-30-01)~~( )

**101. INSURANCE REQUIREMENTS.**

The permittee or the driver of the vehicle hauling or towing overwidth manufactured homes, modular buildings, and office trailers shall be required to carry evidence of general liability insurance in the permitted vehicle written by a company licensed in Idaho showing coverage in the minimum amounts of three hundred thousand dollars (\$300,000) when hauling permittee's own manufactured home. When hauling for hire permittee must carry a minimum amount of seven hundred and fifty thousand dollars (\$750,000) insurance coverage, and have proper authority. ~~(4-5-00)~~( )

**102. -- 199. (RESERVED)**

**200. MANUFACTURED HOMES, MODULAR BUILDINGS, AND OFFICE TRAILERS BEING TOWED ON THEIR OWN AXELS.**

**01. Connection Device.** Shall meet the requirements of Federal Motor Carrier Safety Regulations, 49 CFR part 393. (4-2-08)

**02. Length.** Not in excess of eighty (80) feet including tongue. (10-2-89)

**03. Width.** Shall be limited to a maximum of sixteen (16) feet at the base and shall not exceed eighteen (18) feet overall width including the eaves, except on a case-by-case basis as approved by the department. All movements with a base width in excess of sixteen (16) feet and an overall width in excess of eighteen (18) feet must submit a written request for movement of these units prior to being manufactured and a traffic control plan may also be required with the submission. Prior approval for the movement must be granted before an overlegal permit is issued.

\*\* Determination of manufactured home modular building or office trailer width shall be exclusive of such appurtenances as clearance lights, door handles, window fasteners, door and window trim, moldings and load securement devices up to but not in excess of three (3) inches on each side of load. ~~(3-29-10)~~( )

**04. Eaves.** No restrictions on eaves as long as the eighteen (18) feet maximum overall width limitation is not exceeded, or for those movements approved by the department on a case-by-case basis. (3-29-10)

**05. Weight.** The maximum allowable load for any vehicle tire operated on any public highway shall be in accordance with Code of Federal Regulations, Title 24, Chapter 20, Office of Assistant Secretary for Housing - Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280, Subpart J, (CFR Title 24). (3-23-98)

**06. Running Gear Assembly -- General.** The entire system (frame, drawbar, and coupling mechanism, running gear assembly including brake systems, axles and lights) shall be in accordance with CFR Title 24, for the year the manufactured home was built. In addition thereto, all tires used in transportation of manufactured homes under this category shall be in accordance with Federal Motor Carrier Safety Regulations, part 393. (3-23-98)

**07. Construction.** Construction shall be in accordance with CFR Title 24, for the year the manufactured home was built. (3-23-98)

**08. Axles.** All axles shall be in accordance with CFR Title 24, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have a minimum of four (4) axles. (3-23-98)

**09. Brakes.** Brakes shall be in accordance with CFR Title 24, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have brakes on a minimum of three (3) axles. (3-23-98)

**10. Lights.** The unit shall have stop lights, turn signals and tail lights that meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (3-23-98)

**11. Safety Chains.** Two (2) safety chains shall be used, one (1) each on right and left sides of, but separate from, the coupling mechanism connecting the tow vehicle and the manufactured home while in transit. Chain shall be three-eighths (3/8) inch diameter steel. Chains shall be strongly fastened at each end to connect the tow vehicle and manufactured home and assure that in the event of a coupling failure the manufactured home will track behind the tow vehicle. (3-23-98)

**201. VEHICLES FOR TOWING/HAULING MANUFACTURED HOMES, MODULAR BUILDINGS, AND OFFICE TRAILERS.**

**01. Towing Vehicle.** Tow vehicles for manufactured homes, modular buildings, and office trailers shall comply with the following minimum requirements:

Manufactured Homes and Office Trailers Width	Tire Width	Drive Axle Tire Rating	Min. Unladen Weight	Rear Axle Rating
Over 8' to 10'	7.00"	6 Ply	6,000#	None
Over 10'to 12'	8.00"	8 Ply	8,000#	15,000#
Over 12'	8.25"	10 Ply	12,000#	15,000#

(3-23-98)( )

**02. Brakes.** Shall be in accordance with Federal Motor Carrier Safety Regulations part 393. (8-25-94)

**03. Rear Axle.** Towing vehicle shall have a minimum of a single axle with dual mounted tires. (8-25-94)

**04. Connection Device.** Shall meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (4-2-08)

**05. Horsepower Requirement.** When towing/hauling a manufactured home, modular building, or office trailer a minimum speed of twenty-five (25) mph must be maintained. (3-23-98)( )

**06. Two-Way Radio.** (3-23-98)

**a.** On all movements requiring a pilot/escort vehicle, both the towing unit and the pilot/escort vehicle(s) shall be equipped with two-way radio equipment, licensed under Federal Communications Commission regulations adequate to provide reliable voice communication between the drivers thereof at all times during the movement of the escorted load. Transmitting and receiving capabilities of the radio equipment used shall be adequate to provide the required communication over a minimum distance of one-half (1/2) mile separation under conditions normally encountered along the proposed route. (4-5-00)

**b.** Radio communication shall be open and monitored between pilot/escort vehicle(s) and oversize load at all times during movement. (4-5-00)

**07. Operator Requirements.** Operators of vehicles towing manufactured homes, modular buildings and office trailers over ten (10) feet wide at the base shall have a class A or B Commercial Driver's License (CDL) as appropriate. (3-23-98)

**08. Speed Limit Requirements.** Vehicles towing manufactured homes, modular buildings and or offices, trailers on their own axles shall be limited to a maximum of sixty (60) miles per hour. (3-23-98)( )

**202. -- 299. (RESERVED)**

**300. MANUFACTURED HOME, MODULAR BUILDING, OR OFFICES TRAILER BEING HAULED.**

**01. Length.** Not in excess of eighty (80) feet. (10-2-89)

**02. Width.** Not in excess of sixteen (16) feet at the base and eighteen (18) feet overall, except on a case-by-case basis as approved by the department. All movements with a base width in excess of sixteen (16) feet and an overall width in excess of eighteen (18) feet must submit a written request for movement of these units prior to being manufactured and a traffic control plan may also be required with the submission. Prior approval for the movement must be granted before an overlegal permit is issued. (3-29-10)

**03. Eaves.** No restrictions on eaves as long as the eighteen (18) foot maximum overall width limitation is not exceeded, or for those movements approved by the department on a case-by-case basis. (3-29-10)

**301. HAULING EQUIPMENT FOR A MANUFACTURED HOME, MODULAR BUILDING OR OFFICE TRAILER.**

**01. Hauling Equipment.** Vehicles used to haul manufactured homes, modular buildings and office trailers shall be combinations designed to meet the requirements of Federal Motor Carrier Safety Regulations for vehicles engaged in interstate commerce. Such vehicles shall be of structural capacity to safely accommodate the loading at all times. (8-25-94)

**02. Lights.** The unit shall have stop lights, turn signals and tail lights that meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (8-25-94)

**03. Securing Loads.** A minimum of four (4) steel, three fourths (3/4) inch diameter bolts will be used to directly connect the main support members of the modular building, manufactured home or office trailer to the support frame of moving equipment. Two (2) bolts each shall be located not less than twelve (12) feet from the forward and rear ends of the modular building, manufactured home or office trailer. Each of the four (4) bolts shall be at least four (4) feet apart. Equivalent methods of fastening, such as chains or binders, may be used as alternatives. (8-25-94)

**302. -- 399. (RESERVED)**

**400. GENERAL PROVISIONS.**

**01. Paneling of Open Sides of Multi-Section Modular Buildings, Manufactured Homes or Office Trailers.** Shall be rigid material, or six (6) mil plastic sheathing (or stronger) backed by a grillwork to prevent billowing and fully enclose open sides of section in transit. (3-23-98)

**02. Interior Loading.** If the manufactured home, modular building, or office trailer is to transport furnishings or other loose objects, they shall be secured in position for safe travel. (~~8-25-94~~)(    )

**03. Construction.** Modular buildings shall be constructed in accordance with the Uniform Building Code as applies to design and construction requirements that will affect overall structural strength and roadability. Manufactured homes and offices trailers shall be constructed in accordance with Federal HUD Manufactured Home Construction and Safety Standards. (~~8-25-94~~)(    )

~~**04. Oversize Manufactured Homes or Office Trailers.** Oversize manufactured Homes or Office Trailers must be transported under authority of the rule. IDAPA 39.03.16, "Rules Governing Oversize Permits for Non-Reduceable Vehicles and/or Loads," does not apply to the transport or Manufactured Homes or Office Trailers. (4-5-00)~~

**054. Manufactured Homes, Modular Buildings, and Office Trailers Components.** This rule applies only to Manufactured Homes, Modular Buildings, and Office Trailers and does not apply to individual components utilized in the manufacturing of Manufactured Homes. Permits may be issued to authorize transport of components for Manufactured Homes, Modular Buildings, or Office Trailers under IDAPA 39.03.16, "Rules Governing Oversize

Permits for Non-Reducible Vehicles and/or Loads.” (4-5-00)( )

**065.** **Signs.** All manufactured homes, modular buildings and office trailers whether hauled or towed shall be required to display an oversize load sign, even if no pilot/escort vehicle is required. The sign shall meet the following minimum dimensions: ~~eighteen (18) inches high by seven (7) feet wide, letter height ten (10) inches, letter type standard series C, stroke width one and five eighths (1 5/8) inch,~~ twelve (12) inches high, five (5) feet wide, and eight (8) inch high letters with a one (1) inch stroke width, and black letters on yellow background. (4-5-00)( )

**076.** **Warning Flags.** All manufactured homes, modular buildings and office trailers whether hauled or towed shall be required to display flags on all four (4) corners. The flags may be red or fluorescent orange. (3-23-98)

**087.** **Permits.** Annual permits will allow travel on the following routes at the following dimensions:

Route	Base Width	Overall Width	Height	Overall Length
Red		12' 6"	15' 6"	110'
<del>Black</del>	<del>14'</del>	<del>18'</del>	<del>15' 6"</del>	<del>110'</del>
<del>Double Black</del> <u>Other</u>	16'	18'	15' 6"	110'
<p><del>**The double black routes are the interstate and 4 lane highways.</del>                      **The routes referred to above are on the Pilot/Escort Vehicle and Travel Time Requirements Map.                      **When exceeding the above maximum dimensions allowed for a route, movement will be allowed only by single trip permit.                      **Manufactured homes, modular buildings and offices exceeding sixteen (16) feet overall width being towed on their own axles on two lane highways, will be required to submit for approval a traffic control plan, that lists at a minimum the following information: date of move, routes of travel, turnouts for traffic relief, and dimensions of load.</p>				

(4-5-00)( )

**098.** **Hazardous Travel Conditions Restrictions.** Extreme caution in the operation of vehicle combinations shall be exercised when hazardous conditions exist. The movement by overlegal permit of manufactured homes, modular buildings and office trailers shall be prohibited and otherwise valid permits shall automatically become invalid enroute when travel conditions become hazardous due to ice, snow or frost; when visibility is restricted to less than five hundred (500) feet by fog, dust, smoke or smog or other atmospheric condition; or when wind velocity exceeds thirty (30) miles per hour. (5-8-09)

**109.** **Time of Travel Requirements.** Manufactured homes, modular buildings, and office trailers exceeding ten (10) feet in width, will have daylight travel only. When less than ten (10) feet wide, twenty-four (24) hour travel will be allowed, and must meet the following requirements: (4-5-00)

- a. The lights must be visible from five hundred (500) feet; (4-5-00)
- b. The lights shall be steady burning; (4-5-00)
- c. The color of the lights shall be as follows: (4-5-00)
  - i. Lights visible from the front of the load and the extremities in the middle or near the front of the load shall be amber. (4-5-00)
  - ii. Lights visible from the back of the load and the extremities near the back of the load shall be red. (4-5-00)

**IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT**

**39.03.19 - RULES GOVERNING ANNUAL OVERLEGAL PERMITS**

**DOCKET NO. 39-0319-1501**

**NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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, 49-201 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:

The proposed rule change would increase the load width allowed under an annual permit from the current maximum of 14' 6" to 16' wide. The proposed rule change also makes sure that this rule is in line and working order with rule 39.03.17.

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 2, 2015, Idaho Administrative Bulletin, [Vol. 15-9, pages 303 - 306](#).

**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 the pending 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  
3311 W State Street  
PO Box 7129  
Boise ID 83707-1129  
Phone: (208) 334-8810  
[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@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 23, 2015.

**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, and Sections 49-201 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 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 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 rulemaking:

The proposed rule change would increase the load width allowed under an annual permit from the current maximum of 14' 6" to 16' wide. The proposed rule change also makes sure that this rule is in line and working order with IDAPA 39.03.17.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason: the change confers a benefit.

**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 the rule change is temporary.

**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: NA

**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, (208) 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 23, 2015.

DATED this 29th Day of July, 2015.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0319-1501**

**004. 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 7:30 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) 334-8420 or by fax at (208) 334-8419. ( )

**005. 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. ( )

**004~~6~~ -- 009. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. GENERAL.**

Overlegal permits may be issued for continuous operation to haul or transport nonreducible loads having specified maximum dimensions of oversize or overweight provided such permits for multiple trips can maintain the same measure of protection to highway facilities and to the traveling public as is provided by single trip permits. (4-5-00)

**01. Oversize.** Permits for continuous operation, oversize only. (10-2-89)

**a.** Permits for continuous operation shall be issued to one (1) specified power unit. The permittee may tow various units with the specified power unit, either as towaway vehicles or as trailers hauling oversize loads. Except as provided in IDAPA 39.03.07, "Rules Governing Restricted Routes for Semitrailers," 39.03.16, "Rules Governing Oversize Permits for Non-Reducible Vehicles and/or Loads," Section 200 and 39.03.22, "Rules Governing Overlegal Permits for Extra-Length Vehicle Combinations," oversize loads shall be nonreducible in width, length, or height. In the case of specially constructed equipment, mounted on a towed vehicle, or if the towed vehicle is only hauling an oversize but not overweight load, the permit may be issued to the towed vehicle. (4-5-00)

**b.** Maximum size of loads or vehicles transported under authority of an annual oversize or manufactured homes/modular buildings and office trailer permit, for black and interstate routes, shall be limited to a width of ~~four~~sixteen (1~~4~~6) feet ~~six (6) inches~~ (manufactured homes, modular buildings, and office trailers limited as per IDAPA 39.03.17, "Rules Governing Permits for Manufactured Homes, Modular Buildings, and Office Trailers"), a height of fifteen (15) feet six (6) inches, and to a combination length of one hundred ten (110) feet including load overhang. Annual oversize permits for red coded routes shall be limited to a width of twelve (12) feet six (6) inches. A current Pilot/Escort Vehicle and Travel Time Requirements Map shall accompany such permits for extended operations and shall be considered to be a part of the permit. ~~(4-5-00)~~( )

**02. Overweight/Oversize.** Permits for continuous operation involving overweight loads shall be subject to the following conditions and requirements: (10-2-89)

**a.** Annual permits may not be issued for gross weights in excess of two hundred thousand (200,000) pounds for any colored route. Gross weights in excess of two hundred thousand (200,000) pounds must operate by single trip permit. (4-5-00)

**b.** Since the fees are now based on the number of axles and gross weight to calculate the fee per mile, annual overweight permits will have to be issued to various combinations including those with a different number of axles and higher gross weights for those axles. You will no longer be able to operate less axles than the number stated on the permit, because the fee per mile (using less axles) would be greater than the fee per mile for the higher number

of axles and gross weight. The number of axles in the vehicle configuration may be greater than the number of axles listed on the permit. The gross weight of the vehicle configuration may be less than the gross weight stated for each colored route, but your fee per mile will be based on and reported at the stated gross weight for each colored route on the permit (i.e. black, purple, green and yellow) and the number of axles. (4-5-00)

*e. A percent reduction in the total fees may be given when the following requirements are met: (4-5-00)*

*i. A two percent (2%) reduction per axle group (such as tandem or tridem), to a maximum of ten percent (10%) per vehicle configuration, for axle groups that are wider than ten (10) feet. (4-5-00)*

*ii. A two percent (2%) reduction per axle group (such as tandem or tridem), to a maximum of ten percent (10%) per vehicle configuration, for axle groups with sixteen (16) tires per axle. (4-5-00)*

*iii. If both the above requirements are met for an axle group, a five percent (5%) reduction per axle group, to a maximum of twenty-five percent (25%) per vehicle configuration may be given. This reduction will be taken off of the total roadway use fees charged for the vehicle and will not reduce the administrative fee. (4-5-00)*

~~dc.~~ To comply with Section 49-~~436~~1001, Idaho Code, the permittee will make quarterly reports of mileage to the Department at the permitted weight levels separate from the registered weight mileage otherwise required to be reported to that agency. Mileage for single trip overweight permits is charged for and collected at the time of issuance, and need not be reported elsewhere. ~~Unladen miles are reported at the registered weight of a vehicle or combination of vehicles~~ A quarterly statement is mailed out every three (3) months and required to be returned to the department even if no miles were traveled using the overweight part of the annual permit during that quarter. Every time a non-reducible vehicle and/or load exceeds legal axle weights and/or eighty thousand (80,000) pounds operating under an annual overweight/oversize permit it must be reported on the quarterly statement. The gross weight, number of axles, and the total miles traveled will be the information needed to report. If the gross weight is in between two (2) weight categories listed on the permit/quarterly statement, the permittee will report at the next higher gross weight limit. (4-5-00)(    )

~~ed.~~ Annual permits involving overweight loadings will be available at the following levels: (4-6-92)

i. Red Routes -- The red routes contain posted bridges and require approval or analysis from the Department. A vehicle configuration may be issued an annual overweight/oversize permit for travel on red routes, upon completion of an analysis verifying the requested weights are acceptable. The annual permit will be issued for a specific vehicle configuration, operating on a specific route, at specific weights. All information will be listed on the annual permit and will be subject to revocation at such time the vehicle configuration changes (such as axle spacings), the approved weights change, or a bridge rating changes. (8-4-95)

ii. Yellow Routes -- The yellow overweight level is based on a single axle loading of twenty-two thousand five hundred (22,500) pounds, a tandem axle loading of thirty-eight thousand (38,000) pounds, and a tridem axle loading of forty-eight thousand (48,000) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 560 ((LN/N-1) + 12N + 36)$ . (4-6-92)

iii. Orange Routes -- The orange overweight level is based on a single axle loading of twenty-four thousand (24,000) pounds, a tandem axle loading of forty-one thousand (41,000) pounds, and a tridem axle loading of fifty-one thousand five hundred (51,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 600 ((LN/N-1) + 12N + 36)$ . (3-30-01)

iv. Green Routes -- The green overweight level is based on a single axle loading of twenty-five thousand five hundred (25,500) pounds, a tandem axle loading of forty-three thousand five hundred (43,500) pounds and a tridem axle loading of fifty-four thousand five hundred (54,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 640 ((LN/N-1) + 12N + 36)$ . (4-6-92)

v. Blue Routes -- The blue overweight level is based on a single axle loading of twenty-seven thousand (27,000) pounds, a tandem axle loading of forty-six thousand (46,000) pounds, and a tridem axle loading of

fifty-seven thousand five hundred (57,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 675 ((LN/N-1) + 12N + 36)$ . (3-30-01)

vi. Purple Routes -- The purple overweight level is based on a single axle loading of thirty thousand (30,000) pounds, a tandem axle loading of fifty-one thousand five hundred (51,500) pounds, and a tridem axle loading of sixty-four thousand five hundred (64,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 755 ((LN/N-1) + 12N + 36)$ . (3-30-01)

vii. Black Routes -- The black overweight level is based on a single axle loading of thirty-three thousand (33,000) pounds, a tandem axle loading of fifty-six thousand (56,000) pounds, and a tridem axle loading of seventy thousand five hundred (70,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula  $W = 825 ((LN/N-1) + 12N + 36)$ . (4-6-92)

viii. Vehicles or loads exceeding the axle weights, groups of axle weights, or total gross weights allowed on any of the overweight levels must operate by single trip permit only. (4-6-92)

ix. Weight Formula. "W" is the maximum weight in pounds (to the nearest five hundred (500) pounds) carried on any group of two (2) or more consecutive axles. "L" is the distance in feet between the extremes of any group of two (2) or more consecutive axles, "N" is the number of axles under consideration and "F" is the load factor most appropriate based on the most critical bridge on the highway route. (4-6-92)

**f.** The maximum overweight levels shall not exceed eight hundred (800) pounds per inch width of tire nor the maximum weights authorized by IDAPA 39.03.13, "Rules Governing Overweight Permits," Subsection 200.01. (4-5-00)

**g.** Annual overweight permits shall become invalid subject to the conditions of IDAPA 39.03.23, "Rules Governing Revocation of Special Permits." (4-5-00)

## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

### 39.03.21 - RULES GOVERNING OVERLEGAL PERMIT FEES

DOCKET NO. 39-0321-1501

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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, 49-201 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:

This rule change simply removes the option of establishing and using a “fee account” for the monthly charging and payment of permit fees along with other non-substantive edits to the rule. The new cash drawer system now in place at the Idaho Transportation Department (ITD) allows a carrier the option of establishing an escrow account for payment of permit fees. Elimination of the fee account process will allow ITD to streamline business processes and be more efficient and effective. This change is needed so that ITD’s administrative rules are consistent with the processes used under the new cash drawer system.

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 7, 2015, Idaho Administrative Bulletin, [Vol. 15-10, pages 610 - 612](#).

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

DATED this 6th Day of November, 2015.

Ramon S. Hobdey-Sanchez  
Governmental Affairs Program Specialist  
Idaho Transportation Department  
3311 W. State Street  
PO Box 7129  
Boise ID 83707-1129  
Phone: (208) 334-8810  
[ramon.hobdey-sanchez@itd.idaho.gov](mailto:ramon.hobdey-sanchez@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 initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code, and Section 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, no later than October 21, 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:

This rule change simply removes the option of establishing and using a “fee account” for the monthly charging and payment of permit fees along with other non-substantive edits to the rule. The new cash drawer system now in place at the Idaho Transportation Department (ITD) allows a carrier the option of establishing an escrow account for payment of permit fees. Elimination of the fee account process will allow ITD to streamline business processes and be more efficient and effective. This change is needed so that ITD’s administrative rules are consistent with the processes used under the new cash drawer system.

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

**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 October 28, 2015.

DATED this 26th Day of August, 2015.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0321-1501**

**200. PAYMENT OF OVERLEGAL PERMIT FEES.**

**01. Payment of Fees.** The Idaho Constitution prohibits the state from extending credit to any individual, corporation, municipality or association. Permit fees are collectible at the time of issuance *except that the permittee may guarantee payment of permit fees in advance by posting a bond in a minimum amount as specified in Section 300, Permit Fee Account Procedures of this rule.* (8-25-94)(    )

**02. Refund.** Permit fees are not refundable once they have been processed into the Department's accounting system, unless the permittee contacts the Overlegal Permit Office no more than two (2) working days (during office hours) following the start date of the overlegal permit or the Department issued the overlegal permit in error. (3-19-07)

**03. Permit Costs.** Overlegal ~~(oversize and/or overweight)~~ permit fees listed below are intended to cover cost of administration and are subject to periodic change depending on costs incurred in processing, issuance and enforcement of overlegal permit rules. (3-19-07)(    )

**04. Current Schedule of Fees.** Periodic changes to the fee schedule will be subject to legislative review and approval procedures in accordance with Chapter 52, Title 67, Idaho Code, Administrative Procedure Act. (3-19-07)

**a.** Oversize only, single trip, twenty-eight dollars (\$28). (3-19-07)

**b.** Oversize only, two (2) trips, thirty-three dollars (\$33). (3-19-07)

**c.** Oversize single trip exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, seventy-one dollars (\$71). (3-21-12)

**d.** Oversize only, two (2) trips within seven (7) days, exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, eighty-nine dollars (\$89). (3-21-12)

**e.** Oversize only, annual, twelve (12) consecutive months: ~~Extra length combinations exceeding the limits imposed in Section 49-1010, Idaho Code, on designated routes; Overlength only;~~ Manufactured homes, modular building and office trailers; ~~Recreation vehicles up to twelve (12) feet wide, legal length/height;~~ Farm tractors exceeding nine (9) feet width on Interstate and implements of husbandry; Cylindrical hay bales, two (2) wide; Emergency removal of disabled vehicles; Multiple width loads of crane booms; Multiple width loads of conveyer units; multiple width loads of kiln stacked lumber; Reducible loads, up to and including fourteen (14) feet nine (9) inches high; and exceeding sixty-five (65) feet overall combination length on magenta coded routes; forty-three dollars (\$43). (3-19-07)(    )

**f.** Excess weight or Extra Length (reducible) annual, twelve (12) consecutive months, authority to exceed eighty thousand (80,000) lbs. on reducible loads up to one hundred five thousand five hundred (105,500) pounds, or exceeding the length limits imposed in Section 49-1010, Idaho Code, forty-three dollars (\$43). (3-19-07)(    )

**g.** Extra Length/Excess Weight (reducible) combination, annual, twelve (12) consecutive months, fifty-three dollars (\$53). (3-19-07)

**h.** Overweight/Oversize or Overweight only (non-reducible) single trip, seventy-one dollars (\$71). (3-21-12)

**i.** Overweight/Oversize or Overweight only (non-reducible), two (2) trips, eighty-one dollars (\$81). (3-21-12)

**j.** Overweight/Oversize (non-reducible) single trip, exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, one hundred three dollars (\$103). (3-21-12)

**k.** Overweight/Oversize (non-reducible) two (2) trips within seven (7) days, exceeding sixteen (16) feet wide, or sixteen (16) feet high or one hundred ten (110) feet long, one hundred sixteen dollars (\$116). (3-21-12)

**l.** Overweight/Oversize (non-reducible) annual permit fee for twelve (12) consecutive months, one hundred twenty-eight dollars (\$128). (3-21-12)

~~**m.** Overlegal permit manual (plus current sales tax for Idaho residents), five dollars (\$5). (3-19-07)~~

~~**m.** Fee for reissuance or transfers, fifteen dollars (\$15). (3-19-07)~~

**05. Additional Fees.** The department may require reimbursement of actual costs incurred for extraordinary services provided, incidental and necessary to the planning and/or movement of overlegal loads moving under the requirements of a traffic control plan. (3-21-12)

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

~~**300. PERMIT FEE ACCOUNT PROCEDURES.**~~

~~**01. Permit Fee Account.** To establish a basis for the issuance of overlegal permits on other than a cash basis, the permittee may guarantee permit fees by posting a surety bond. The bond shall have a minimum value of one thousand dollars (\$1,000) or be equal to the value of permits required by the permittee during any three (3) consecutive months, whichever is greater. (3-19-07)~~

~~**02. Bond Requirements.** Surety bonds for this purpose shall be furnished by a bonding or insurance company licensed to do business in Idaho. Applications to establish permit fee accounts shall be obtained from and filed with the Department along with the required bond. (3-19-07)~~

~~**301. -- 999. (RESERVED)**~~



## IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

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

DOCKET NO. 39-0322-1501

#### NOTICE OF RULEMAKING - ADOPTION OF PENDING 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. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part 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, 49-201 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:

This rule change is necessary, so that the Idaho Transportation Department (ITD) is in compliance with the passage of HB 70, passed during the 2015 Idaho Legislative Session, and that the rules and statutes affecting ITD are consistent. The passage of HB 70 required a change to this rule, so that tire limitation restrictions match those now currently under Idaho Code. It allows more flexibility in the amount of weight carried on steer axles.

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 5, 2015, Idaho Administrative Bulletin, [Vol. 15-8, pages 129-132](#).

**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, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the pending rule, contact Regina Phipps, Vehicle Size and Weight Specialist, (208) 334-8418.

DATED this 26th Day of August, 2015.

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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 23, 2015.

**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, and Sections 49-1004, 49-1004A and 49-1010, 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 19, 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 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 rulemaking:

This rule change is necessary so that the Idaho Transportation Department (ITD) is in compliance with the passage of HB 70, passed during the 2015 Idaho Legislative Session, and that the rules and statutes affecting ITD are consistent. The passage of HB 70 required a change to this rule, so that tire limitation restrictions match those now currently under Idaho Code. It allows more flexibility in the amount of weight carried on steer axles.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: the change ensures consistency between this administrative rule and the passage of HB 70. It also confers a benefit.

**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 67-5221(j), Idaho Code, negotiated rulemaking was not conducted because the rule change is 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: NA

**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, (208) 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 August 26, 2015.

DATED this 30th Day of June, 2015.

**LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0322-1501**

**200. DESIGNATED ROUTES FOR VEHICLE COMBINATIONS UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS.**

In addition to the requirements listed in Sections 300 and 400, vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds, must meet the following requirements: (7-1-13)

**01. Brakes.** All axles shall be equipped with brakes that meet the Federal Motor Carrier Safety Regulations. (7-1-13)

**02. Permits.** Permits will be vehicle specific and will 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. (7-1-13)

**03. Designated Routes.** 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. (4-1-14)

**a. Magenta-Coded Routes.** 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. ~~(4-1-14)~~( )

**b. Brown-Coded Routes.** 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. ~~(4-1-14)~~( )

**c.** 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. (4-1-14)

**04. 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: (4-1-14)

**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. (4-1-14)

**b. Request Review/Analysis Process.** (4-1-14)

**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. (4-1-14)

**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. (4-1-14)

**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. (4-1-14)

**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. (4-1-14)

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. (4-1-14)

vi. The Department will notify the requestor of the Chief Engineer's Preliminary Order and post to the Idaho Transportation Department Web site. (4-1-14)

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. (4-1-14)

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. (4-1-14)

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

**300. OPERATING REQUIREMENTS FOR EXTRA-LENGTH, EXCESS WEIGHT, AND UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS VEHICLE COMBINATIONS.**

All vehicle combinations shall be subject to the following conditions, limitations, and requirements: (7-1-13)

**01. 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. (7-1-13)

**02. Power Unit.** The power unit of all vehicle combinations shall have adequate power and traction to maintain a minimum of twenty (20) miles per hour under normal operating conditions on any up-grade over which the combination is operated. (7-1-13)

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

**04. Hazardous Travel Conditions Restrictions.** Extreme caution in the operation of permitted vehicle combinations shall be exercised when hazardous conditions exist. 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. (7-1-13)

**05. 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)

**06. 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)

**07. 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. (7-1-13)

**08. Tire Limitations.** Single axles on 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 six hundred (600) pounds, the manufacturers rating or legal weights whichever is less. Load for inch width of tire for the front steer axle may not exceed the manufacturer's load rating per tire or the load rating of the axle or twenty thousand (20,000) pounds per axle whichever is less. (~~7-1-13~~)( )

**09. Brakes.** Brakes shall meet the Federal Motor Carrier Safety Regulations. (7-1-13)