

# **PENDING RULES**

## **COMMITTEE RULES**

### **REVIEW BOOK**

Submitted for Review Before  
**Senate Transportation Committee**  
65th Idaho Legislature  
Second Regular Session – 2020



*Prepared by:*

*Office of the Administrative Rules Coordinator  
Division of Financial Management*

*January 2020*

# SENATE TRANSPORTATION COMMITTEE

## ADMINISTRATIVE RULES REVIEW

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**IDAPA 35 – STATE TAX COMMISSION**  
**35.01.05 – IDAHO MOTOR FUELS TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0105-1901**  
**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 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.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 35-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, 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 add a conversion factor for hydrogen, a gaseous special fuel. This will enable taxpayers to report and pay tax on hydrogen. In addition, changes were made to make the rule more readable.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2019 Idaho Administrative Bulletin, [Vol.19-9, page 384](#).

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

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

Dated this 4th day of December, 2019.

Don Williams  
Excise Tax Specialist – Tax Policy  
State Tax Commission  
11321 Chinden Blvd., Bldg. 2  
P.O. Box 36  
Boise, ID 83722-0410  
Phone: (208) 334-7855  
Fax: (208) 334-7690  
[don.williams@tax.idaho.gov](mailto:don.williams@tax.idaho.gov)

THE FOLLOWING NOTICE 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, 63-2427, 63-2410, and 63-2423, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2019.

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:

**Rule 110** – This rule is being changed to add a conversion factor for hydrogen, a gaseous special fuel. This will enable taxpayers to report and pay tax on hydrogen. In addition, changes were made to make the rule more readable.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 98](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact 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 September 25, 2019.

Dated this 4th day of September, 2019.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0105-1901

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

**01. Gaseous Special Fuel.** 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. ( )

**02. Selling Gaseous Special Fuel.** A gaseous special fuel may be sold at volumes or weights other than those listed in this section. **Distributors and consumers paying tax or claiming refunds must use** the volumes and weights **required by the Commission when reporting.** ( )

**03. Computing Gaseous Special Fuel Tax Equivalents.** Computation is made by multiplying the percentage of gasoline gallon energy equivalent times the current gasoline tax rate for each type of gaseous special fuel.

<b>Motor Fuel</b>	<b>BTUs per Gallon or Gallon Equivalent</b>	<b>Equivalent Volume or Weight/Mass</b>	<b>Percentage of Gasoline Gallon Energy Equivalent</b>
Gasoline	127,000	1 gallon	100%
Propane	92,000	4.25 lbs. or 1 gallon	72.44%
Compressed Natural gas (CNG)	127,000 per GGE	5.66 lbs.	100%
Liquefied Natural Gas (LNG)	138,400 per DGE	6.06 lbs.	108.98%
Hydrogen	127,000 per GGE	1 kg.	100%

( )

# IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

DOCKET NO. 39-0000-1900

## NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon 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 full force and effect upon adoption of 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 pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 39, rules of the Idaho Transportation Department:

### IDAPA 39

- 39.02.01, *Rules Governing Vehicle Manufacturer and Distributor Franchise Requirements*
- 39.02.02, *Rules Governing Vehicle & Vessel Dealer License Requirements - Motor Vehicles*
- 39.02.03, *Rules Governing Vehicle Dealer's Principal Place of Business*
- 39.02.27, *Rules Governing Titling and Registration of Non-Resident Commercial Vehicles and Transient Farm Labor Vehicles*
- 39.02.42, *Temporary Vehicle Registration When Proof of Ownership Is Insufficient*
- 39.02.43, *Rules Governing Registration and Title Fee Refunds*
- 39.02.45, *Rules Governing Fees for Lapsed Registration Periods*
- 39.02.70, *Rules Governing Restricted Driving Permits*
- 39.02.71, *Rules Governing Driver's License Violation Point System*
- 39.02.72, *Rules Governing Administrative License Suspensions*
- 39.02.73, *Rules Governing Accident Prevention Course*
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- 39.03.44, *Rules Governing Highway Relocation Assistance for Persons Displaced by Public Programs*
- 39.03.47, *Rules Governing Certification of Local Improved Road Mileage*
- 39.03.48, *Rules Governing Routes Exempt From Local Plans and Ordinances*
- 39.03.49, *Rules Governing Ignition Interlock Breath Alcohol Devices*
- 39.03.50, *Rules Governing Safety Rest Areas*
- \*39.03.60, *Rules Governing Outdoor Advertising*
- 39.03.65, *Rules Governing Traffic Minute Entries*

- 39.03.80, *Rules Governing Legalization of Overloaded Vehicles*
- 39.03.81, *Rules Governing Issuance of Temporary Permits In Lieu of Full Registration*
- \*39.04.01, *Rules Governing Aeronautics and Aviation (New Chapter)*

This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 39, rules of the Idaho Transportation Department:

- **(VACATED)** 39.02.05, *Rules Governing Lien Filing on Certificate of Title*
- **(VACATED)** 39.02.09, *Rules Governing Requirements for Manufacturer's Certificate of Origin (MCO)*
- **(VACATED)** 39.02.11, *Rules Governing Odometer Readings on Title Records*
- **(VACATED)** 39.02.12, *Rules Governing Issuing Certificates of Title and Bonded Certificates of Title*
- **(VACATED)** 39.02.24, *Rules Governing 'Gray Market' Vehicle Registration and Titling*
- **(VACATED)** 39.02.46, *Rules Governing Temporary Motor Vehicle Registration Permit*
- **(VACATED)** 39.02.61, *Rules Governing License Plates for Governmental Agencies and Taxing Districts*
- **(VACATED)** 39.03.62, *Rules Governing Logo Signs*
- **(VACATED)** 39.03.64, *Rules Governing Tourist Oriented Directional Signs (TODS)*
- **(VACATED)** 39.03.61, *Rules Governing Directional and Other Official Signs and Notices*
- **(VACATED)** 39.03.63, *Rules Governing Traffic Accident Memorials*
- **(VACATED)** 39.04.01, *Rules Governing Federal Aviation Regulations*
- **(VACATED)** 39.04.02, *Rules Governing Marking of Hazards to Air Flight*
- **(VACATED)** 39.04.03, *Rules Governing Restriction of Flight in Designated Emergency Areas*
- **(VACATED)** 39.04.04, *Rules Governing Idaho Airport Aid Program*
- **(VACATED)** 39.04.05, *Rules Governing Aircraft Registration*
- **(VACATED)** 39.04.06, *Rules Governing Commercial and Through-the-Fence Operations and Hangar Construction at State Airports*
- **(VACATED)** 39.04.07, *Rules Governing Aerial Search and Rescue of Lost Aircraft and Airmen*
- **(VACATED)** 39.04.08, *Rules Governing Operations at State Airports*

The consolidation of various rule chapters was done in an effort to support the Governor's Red Tape Reduction Act. The changes enhance customer usability and also allowed for the deletion of antiquated and outdated information. Specifically, IDAPA 39.03.63 and 39.03.64 are combined and consolidated into **IDAPA 39.03.41**; 39.03.61 and 39.03.63 are combined and consolidated into **IDAPA 39.03.60**; and 39.04.01, 39.04.02, 39.04.03, 39.04.04, 39.04.05, 39.04.06, 39.04.07 and 39.04.08 are consolidated into **IDAPA 39.04.01**.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, [Vol. 19-6SE, pages 6236-6473](#).

**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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning these pending rules, please contact Ramón Hobdey-Sánchez at (208) 334-8810. Additionally, please visit ITD's rulemaking website at [itd.idaho.gov/rulemaking](http://itd.idaho.gov/rulemaking) for rules drafts and educational materials.

DATED this October 11, 2019.

Ramón S. Hobdey-Sánchez, J.D.  
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Idaho Transportation Department  
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**THE FOLLOWING NOTICE PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

**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 temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 39, rules of the Idaho Transportation Department:

**IDAPA 39**

- 39.02.01, *Rules Governing Vehicle Manufacturer and Distributor Franchise Requirements*
- 39.02.02, *Rules Governing Vehicle & Vessel Dealer License Requirements - Motor Vehicles*
- 39.02.03, *Rules Governing Vehicle Dealer's Principal Place of Business*
- 39.02.05, *Rules Governing Lien Filing on Certificate of Title*
- 39.02.09, *Rules Governing Requirements for Manufacturer's Certificate of Origin (MCO)*
- 39.02.11, *Rules Governing Odometer Readings on Title Records*
- 39.02.12, *Rules Governing Issuing Certificates of Title and Bonded Certificates of Title*
- 39.02.24, *Rules Governing 'Gray Market' Vehicle Registration and Titling*
- 39.02.27, *Rules Governing Titling and Registration of Non-Resident Commercial Vehicles and Transient Farm Labor Vehicles*
- 39.02.42, *Temporary Vehicle Registration When Proof of Ownership Is Insufficient*
- 39.02.43, *Rules Governing Registration and Title Fee Refunds*
- 39.02.45, *Rules Governing Fees for Lapsed Registration Periods*
- 39.02.46, *Rules Governing Temporary Motor Vehicle Registration Permit*
- 39.02.61, *Rules Governing License Plates for Governmental Agencies and Taxing Districts*
- 39.02.70, *Rules Governing Restricted Driving Permits*
- 39.02.71, *Rules Governing Driver's License Violation Point System*
- 39.02.72, *Rules Governing Administrative License Suspensions*
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- 39.03.47, *Rules Governing Certification of Local Improved Road Mileage*
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- 39.03.60, *Rules Governing Outdoor Advertising*
- 39.03.61, *Rules Governing Directional and Other Official Signs and Notices*
- 39.03.62, *Rules Governing Logo Signs*
- 39.03.63, *Rules Governing Traffic Accident Memorials*
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- 39.04.02, *Rules Governing Marking of Hazards to Air Flight*
- 39.04.03, *Rules Governing Restriction of Flight in Designated Emergency Areas*
- 39.04.04, *Rules Governing Idaho Airport Aid Program*
- 39.04.05, *Rules Governing Aircraft Registration*
- 39.04.06, *Rules Governing Commercial and Through-the-Fence Operations and Hangar Construction at State Airports*
- 39.04.07, *Rules Governing Aerial Search and Rescue of Lost Aircraft and Airmen*
- 39.04.08, *Rules Governing Operations at State Airports*

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. Additionally, these rules serve many different stakeholders within the transportation industry. IDAPA 39 rules relate to both the Department's Division of Highways and Division of Motor Vehicles; among others. The rules serve as an important tool and resource for many of the Department's business operations.

**FEE SUMMARY:** This rulemaking does not impose a fee or charge.

**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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rules, please contact Ramón Hobdey-Sánchez at (208) 334-8810.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0000-1900**

**39.02.01 – RULES GOVERNING VEHICLE MANUFACTURER AND  
DISTRIBUTOR FRANCHISE REQUIREMENTS**

**000. LEGAL AUTHORITY.**

This rule is adopted under the authority of Sections 49-201, 49-501, 49-504, 49-519, 49-1602 and 49-1606, Idaho Code. (9-14-92)

**001. TITLE AND SCOPE.**

This rule is titled IDAPA 39.02.01, “Rules Governing Vehicle Manufacturer and Distributor Franchise Requirements.” and clarifies the operating procedures of vehicle manufacturers and distributors who franchise through vehicle dealers. (12-26-90)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Finished Vehicle.** A vehicle offered for sale and delivered by the manufacturer for sale at retail. (12-26-90)

**02. New Vehicle.** A vehicle that has not been previously titled or registered and has not been previously required to be titled or registered. (9-14-92)

**03. Used Vehicle.** A vehicle that has been previously titled or registered or previously required to have been titled or registered. (9-14-92)

**04. MCO/MSO.** Manufacturer’s certificate of origin or manufacturer’s statement of origin. (9-14-92)

**05. Motor Home.** A vehicle designed to provide temporary living quarters which are built into or permanently attached to a self-propelled vehicle chassis or van. In addition to sleeping and dining facilities, the vehicle must contain permanently installed independent life support systems that provide at least four (4) of the following: (9-14-92)

**a.** A potable water supply system including plumbing, a faucet and a sink, designed as either self-contained or to be connected with an external water supply, or both; (12-26-90)

**b.** Permanently installed cooking facilities; (12-26-90)

**c.** A permanently installed ice box or refrigeration unit; (12-26-90)

**d.** A permanently installed 110-125 volt electrical power supply or L.P. gas supply, or both; (12-26-90)

**e.** A permanently installed heating or air conditioning system, or both; (12-26-90)

**f.** A permanently installed, self-contained toilet. (12-26-90)

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

**100. GENERAL PROVISIONS.**

**01. Vehicle Manufacturer or Distribution Licensing.** The Department shall issue a manufacturer or distributor license to firms that own the finished vehicle and either: (12-26-90)

**a.** Completely manufacture and assemble new vehicles; (2-26-90)

**b.** Install on previously assembled vehicle chassis: equipment designed for non-transportation, contractor purposes such as cranes, backhoes, etc.; equipment designed for ambulance or mortuary purposes or for the transportation of physically handicapped persons confined to wheelchairs; equipment designed for special purpose use, such as van conversions, tank trucks, ambulances, etc.; or (12-26-90)

**c.** Construct or convert and equip previously assembled vehicles or chassis for use as motor homes. (12-26-90)

**02. Licensed Manufacturers Provisions.** Licensed Manufactures may franchise any Idaho dealer; shall display the make, name and chassis identification number approved by the Society of Automotive Engineers on each vehicle; and furnish an MCO/MSO for each completed vehicle to dealers. (12-26-90)

**03. Motor Home MCO/MSO Requirements.** MCOs for motor homes shall indicate the independent life support system features installed on the vehicle. (12-26-90)

**101. -- 999. (RESERVED)**

**39.02.02 – RULES GOVERNING VEHICLE AND VESSEL DEALER  
LICENSE REQUIREMENTS – MOTOR VEHICLES**

**000. LEGAL AUTHORITY.**

This rule is adopted under the authority of Sections 49-1602, and 49-1606(7), Idaho Code. (9-14-92)

**001. TITLE AND SCOPE.**

**01. Title.** This rule is titled IDAPA 39.02.02, “Rules Governing Vehicle and Vessel Dealer License Requirements – Motor Vehicles.” (3-30-01)

**02. Scope.** This rule clarifies the requirements for the issuance of dealer licenses, clarifies allowable locations for “supplemental lot” and “temporary supplemental lot” licenses, and specifies provisions for refunds of dealer and salesman licensing fees, dealer thirty-day (30) temporary permits, dealer license plates, and dealer validation sticker fees. (3-30-01)

**002. -- 099. (RESERVED)**

**100. DEALER LICENSE REQUIREMENTS.**

A dealer license is required in the following situations: (12-26-90)

**01. Seller Not Titled Owner.** Selling or exchanging; or (12-26-90)

**02. Maximum Sales.** Selling, or exchanging, or soliciting the sale of five (5) or more vehicles or vessels in any one (1) calendar year even though titled in seller’s name; or (3-30-01)

**03. Display for Sale.** Displaying for sale or exchange, five (5) or more vehicles or vessels at any one (1) time even though titled in the displayer’s name; or (3-30-01)

**04. Displaying Vehicles or Vessels.** Displaying vehicles or vessels for sale, exchange or consign on property not legally controlled by the owner of the vehicle or vessel. (3-30-01)

**101. SALESPERSON LICENSE.**

Dealers shall not allow a person to act as a salesperson in their behalf unless such person holds a valid salesperson license containing a current photograph of the salesperson, and the date of expiration of the salesperson’s license. (9-14-92)

**01. Temporary Salesperson.** A new or transferring salesperson may act as a temporary salesperson for a sponsoring dealer for a period, not to exceed sixty (60) days, if the person has: (9-14-92)

**a.** Made application to the Department; and (9-14-92)

**b.** Paid the required fees; and (9-14-92)

**c.** Has retained a copy of the completed application. (9-14-92)

**02. Temporary Salesperson Sales Authorization.** A copy of the application must be carried by the temporary salesperson as authorization to act as a salesperson. (9-14-92)

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

**200. OFF-PREMISE SALES ACTIVITIES.**

The Department will not issue a “supplemental lot” or “temporary supplemental lot” license, unless the proposed sale or display activity is located within the same or adjacent county as the dealership’s principal place of business location or unless the dealership satisfies the requirements of Section 49-121(1), Idaho Code. Display of vehicle(s) or vessel(s) for sale or exchange at a location other than the location specified on the license issued to the dealer is a violation of this rule and the Dealer and Salesman Licensing Act. (3-30-01)

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

**300. REQUEST FOR REFUND OF DEALER OR SALESPERSON LICENSING FEES.**

The fees established for dealer and salesperson licenses are based on the costs to set up the files and to issue the necessary documents to begin operation of the enterprise. Therefore, the Department will only process requests for refunds of licensing fees if: (9-14-92)

- 01. Application Denial.** The application is denied prior to the issuance of a temporary license. (9-14-92)
  - 02. Prior to License Issuance.** The applicant requests a refund prior to the issuance of a license. (9-14-92)
  - 03. Prior to Renewal Issuance.** The licensee pays a renewal license fee and then requests a refund prior to the issuance of the renewed license. (9-14-92)
  - 04. Over-Payment.** The applicant over-pays the fees required. (9-14-92)
- 301. REFUND OF DEALER THIRTY DAY TEMPORARY PERMITS, LICENSE PLATES, AND VALIDATION STICKER FEES.**  
The Department will process requests for refunds if: (9-14-92)
- 01. Unused Permits.** The thirty (30) day temporary permits are returned unused by a dealership that is going out of business. (9-14-92)
  - 02. Plates Not Ordered.** The dealer license plates have not been ordered through the plate manufacturer. (9-14-92)
  - 03. Validation Stickers Unused.** The dealer validation stickers have not been applied to the dealer's license plates. (9-14-92)
- 302. -- 999. (RESERVED)**

## 39.02.03 – RULES GOVERNING VEHICLE DEALER’S PRINCIPAL PLACE OF BUSINESS

### 000. LEGAL AUTHORITY.

This rule is adopted under the authority of Section 49-201(1), Idaho Code and the Vehicle Dealer Act, Chapter 16, Title 49, Idaho Code. (12-26-90)

### 001. TITLE AND SCOPE.

**01. Title.** This rule are titled IDAPA 39.02.03, “Rules Governing Vehicle Dealer’s Principal Place of Business.” (3-29-12)

**02. Scope.** This rule clarifies terms used in the definition of “principal place of business” and provisions regarding these terms. (3-29-12)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

**01. Vehicle Dealer File System.** Books, records and files, necessary to conduct the business of a vehicle dealership. In accordance with the Vehicle Dealer Act, records shall be securely kept by the dealership in such order that they can be readily inspected by a Department Investigator. Such records and files may be kept electronically, as long as such records can be verified by the dealership as true and correct copies of the original records. Physical records or files retained by the dealership may be stored at an off-site location. The dealership must notify the department 30 days in advance of the address of the off-site location prior to moving such records. Records or files stored off-site must be made available to the department within 3 business days upon request. The files and records shall contain but are not limited to: (3-29-12)

**a.** Physical or electronic sales invoices for current and two (2) preceding years; (3-29-12)

**b.** Physical or electronic copies of purchase orders for vehicles purchased for current and two (2) preceding years; (3-29-12)

**c.** Physical or electronic copies of title application forms accessible in numerical order; (3-29-12)

**d.** Written or electronic records of vehicles bearing new or used dealers’ number plates and their use by a manufacturer, vehicle dealer, or full-time licensed salespersons searchable by date, time or plate number; (3-29-12)

**e.** Written or electronic records for loaner plates searchable by date, time or plate number; (3-29-12)

**f.** Copies or electronic records of Wholesale Dealer Forms records showing, all transactions, as applicable searchable by date or name of consignee; (3-29-12)

**g.** Physical or electronic odometer disclosure records for non-exempt vehicles; and (3-29-12)

**h.** Physical or electronic records of consignment agreements, as specified in Section 49-1636, Idaho Code. (3-29-12)

**i.** All electronic records must be created in a secure manner to prevent such records from being altered. Electronic copies of records must be legible, complete, and an accurate reproduction of the original business record. (3-29-12)

**j.** All electronic copies of records shall be supplemented with a back-up copy of the electronic records, either retained on-site or an off-site location, which permits the business record to be retrieved within three (3) business days. (3-29-12)

**k.** Any device, server, network device, or any internal or external storage medium which stores the electronic records must have security access controls and physical security measures to protect the records from unauthorized access, viewing, or alteration. (3-29-12)

**l.** Any dealer storing electronic or physical records that contain personal information shall ensure that disposal of any records be completed in a secure manner, by shredding, erasing, or otherwise modifying the personal information to make it unreadable or undecipherable through any means. (3-29-12)



**02. Vehicle Dealer Sign Requirements.** An exterior sign permanently affixed to the land or building, with clearly visible letters, visible to major avenue of traffic meeting local building or zoning codes with the trade name of the dealership clearly visible is required. Wholesale dealer signs may be painted on the window of the office next to the entrance door of sufficient size to be easily read by prospective customers. A suggested retail sign size is twenty-four (24) square feet, with a minimum of four (4) inch letters. (3-29-12)

**03. Telephone.** A business phone that has a published business number and listing in a local telephone directory in the name of the dealership. Business phones shall be answered during declared business hours, in the name of the licensed dealer. The telephone may be answered in person, by an answering machine, or at a remote location in person. (3-29-12)

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

**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.** 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. 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. (3-25-16)

**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 will 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)

**101. -- 299. (RESERVED)**

**300. PENALTIES.**

A dealer violating this rule shall be subject to license suspension for a period not to exceed six (6) months. (12-26-90)

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

**39.02.27 – RULES GOVERNING TITLING AND REGISTRATION OF NON-RESIDENT  
COMMERCIAL VEHICLES AND TRANSIENT FARM LABOR VEHICLES**

**000. LEGAL AUTHORITY.**

This rule is adopted under the authority of Sections 49-201, 49-441 and 49-501, Idaho Code. (12-26-90)

**001. TITLE AND SCOPE.**

This rule establishes the procedures for the titling and registering of non-resident commercial vehicles and transient farm labor vehicles. (12-26-90)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Established Place of Business.** Means a physical structure owned, leased or rented by the registrant, designated by street number or road location, open during business hours, contains a telephone publicly listed in the name of the registrant and is the location where the operational records of the registrant can be made available. (12-26-90)

**02. Idaho Trucking Company.** Means any entity located within Idaho which meets the requirement of “established place of business.” (12-26-90)

**03. Lessee.** Means a person, firm or corporation which has legal possession and control of a vehicle and/or motor vehicle under the terms of a written lease agreement. (12-26-90)

**04. Lessor.** Means an owner of a vehicle who, pursuant to the terms of a lease agreement, grants the legal right of possession, control and responsibility for the operations of the vehicle and/or motor vehicle to another person or entity. (12-26-90)

**05. Non-Resident Owner-Operator.** Means an owner-operator of a vehicle and/or motor vehicle who is not a resident of Idaho, but is leasing transportation equipment, titled in another state, to an Idaho trucking company. (12-26-90)

**06. Transient Farm Labor Vehicles.** Means a vehicle, or combination of vehicles, owned by a transient farm laborer, used in hauling unprocessed agricultural products for hire, and not exceeding sixty thousand (60,000) pounds maximum gross weight. (12-26-90)

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

**100. GENERAL PROCEDURE.**

**01. Out-of-State Title Required.** A non-resident owner-operator leasing equipment to an Idaho trucking company must submit a copy of the out-of-state title with a registration application to complete registration requirements. (12-26-90)

**02. Temporary Clearance.** If the copy is not immediately available, temporary vehicle clearance or temporary registration may be issued. (12-26-90)

**03. Idaho Title Required.** Non-resident owner-operators who lease to Idaho trucking companies and intend to obtain an Idaho registration in the name of the owner-operator must obtain an Idaho title for the equipment to be registered in Idaho. The non-resident owner-operator must meet the requirements of “established place of business.” (12-26-90)

**04. Documentation Provided.** Once the copy of the out-of-state title has been provided to the Motor Vehicle Bureau the lessee shall not be required to provide further copies if the lease arrangement and vehicle(s) remain unchanged. (12-26-90)

**05. Registration Only.** If no Idaho title is issued, the registration document shall indicate “Reg. Only” in the title space. (12-26-90)

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

**200. NON-RESIDENT REGISTRATIONS.**

**01. No Reciprocity Agreement.** Non-resident companies operating on an intrastate basis in Idaho when no specific agreement exists between Idaho and the state where the non-resident vehicle(s) are registered must register in Idaho. Idaho titling will not be required. (12-26-90)

**02. Prorate Privilege.** Non-resident companies operating in Idaho on an intrastate basis, having prorate privileges through a reciprocal agreement between Idaho and the state of registration must either prorate in Idaho, or purchase an Idaho registration or trip permit. (12-26-90)

**03. Registration Required.** Vehicles used on an intrastate basis in Idaho by an out-of-state company and are housed or garaged in Idaho, and do not return to the state where registered each day, must register in Idaho. (12-26-90)

**04. Proof of Ownership Required.** Applicants registering transient farm labor vehicles must provide proof of ownership by one of the following means: (12-26-90)

- a. Certificate of title in the name of the applicant; (12-26-90)
- b. Valid registration certificate from another state in the name of the applicant; or (12-26-90)
- c. Certified copy of the title in the name of the applicant. (12-26-90)

**05. Employee Owned Vehicles.** Employees of companies who are working in Idaho on a contract or project must purchase Idaho registration for their privately owned vehicles if they establish a place of residence in Idaho. Non-resident employees who return to their state of residence on a daily basis are not required to purchase Idaho registration for their privately owned vehicles. If the assignment is for the duration of the project or contract only, no Idaho titling is required. (12-26-90)

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

**300. RECIPROCITY.**

**01. Equal Registration Reciprocity.** Idaho shall deal fairly and equally in all reciprocity agreements, the International Registration Plan (IRP) and the Uniform Prorate Agreement. (12-26-90)

**02. Equal Treatment.** Idaho shall treat out-of-state residents on the same basis as Idaho residents are being treated by the other state. (12-26-90)

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

**39.02.42 – TEMPORARY VEHICLE REGISTRATION WHEN PROOF  
OF OWNERSHIP IS INSUFFICIENT**

**000. LEGAL AUTHORITY.**

This rule is adopted under the authority of Sections 49-501, 49-507 and 49-523, Idaho Code. (12-26-90)

**001. TITLE AND SCOPE.**

This rule is titled IDAPA 39.02.42, “Temporary Vehicle Registration When Proof of Ownership is Insufficient,” and provides for temporary vehicle registration when the applicant does not have sufficient proof of ownership. This rule does not apply to Idaho licensed dealers, non-residents of Idaho; or owners and/or operators of non-Idaho based commercial vehicles operated in interstate commerce under the various proportional registration plans or agreements with other states of which Idaho is a participant. (12-26-90)

**002. -- 099. (RESERVED)**

**100. INSUFFICIENT PROOF OF OWNERSHIP INCLUDES.**

**01. Vehicle Record.** The vehicle for which record of ownership is unavailable; (12-26-90)

**02. Title.** The applicant does not have the title from the previous owner; (12-26-90)

**03. Release of Interest.** The previous owner of record has not released interest in the title; (12-26-90)

**04. Bill of Sale.** The possessor has the unreleased title but does not have a bill of sale to support transfer of ownership; (12-26-90)

**05. Vehicle Identification Number.** The title vehicle identification number (VIN) and the VIN on the vehicle do not match (except for obvious typographical errors); or (12-26-90)

**06. Documentation for Component Part.** Component parts of a homemade, reconstructed or specially constructed vehicle cannot be documented. (12-26-90)

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

**200. PROCEDURE.**

**01. Conditional Registration.** “Registration Only” (conditional registration until titling requirements are met) may be processed for a one (1) year period without benefit of title. (12-26-90)

**02. Altered VINs.** “Registration Only” shall not be issued on vehicles with altered VINs, vehicles confirmed as stolen or vehicles where there is a recorded and unpaid lien. (12-26-90)

**03. Conditional Registration Procedure.** “Registration Only” procedure is as follows: (12-26-90)

**a.** VIN Inspection: The vehicle must be inspected by an agent of the county assessor’s office or a city, county or state peace officer. The inspecting officer will verify the identification number and provide the applicant with a signed inspection form containing the vehicle description, other pertinent information and recommendations. If the VIN has been altered or is missing, the officer may ask for the assistance of a motor vehicle investigator before issuing the VIN inspection. (12-26-90)

**b.** Indemnifying Affidavit. The “Registration Only” applicant must complete an indemnifying affidavit explaining how and where the vehicle came into his/her possession, and why proper documentation is not available. The indemnifying affidavit must be signed in the presence of the county assessor or deputy assessor, and must fully indemnify and save harmless the department. (12-26-90)

**c.** Registration of the Vehicle: The vehicle can be registered for one (1) year. The title block of the registration document will show “Registration Only” in bold letters. The applicant must obtain adequate proof of ownership prior to the end of the tenth (10th) month of the registration period to allow adequate time for title processing. The one (1) year “Registration Only” period shall not be extended. (12-26-90)

**d.** The county shall hold the VIN inspection and the indemnifying affidavit in file until the applicant complies with requirements in Subsection 200.04. (12-26-90)

**04. Applicant Responsibility.** By the end of the tenth (10th) month of the “Registration Only” period, the applicant must present a properly executed title and bill of sale for the vehicle or apply for a bonded title. (12-26-90)

**05. Action by the County Assessor.** When the applicant has complied with Subsection 200.04, the county assessor shall remove the VIN inspection and indemnifying affidavit from file; prepare an Application for Title; and submit the application form with the title, bill of sale, indemnifying affidavit and VIN inspection for title processing. (12-26-90)

**06. Proof of Ownership.** If the applicant cannot prove ownership within the one (1) year “Registration Only” period, no further registration (permanent or temporary) will be issued until after the title requirement is met. (12-26-90)

**07. Abandoned Vehicles.** “Abandoned Vehicles” as provided for in Chapter 18, Title 49, Idaho Code, must be processed in accordance with abandoned vehicle statutes and are not affected by this rule. (12-26-90)

**201. -- 999. (RESERVED)**

**39.02.43 – RULES GOVERNING REGISTRATION AND TITLE FEE REFUNDS**

**000. LEGAL AUTHORITY.**

This rule is adopted under the authority of Sections 49-201 and 49-507, Idaho Code. (12-26-90)

**001. TITLE AND SCOPE.**

This rule is titled IDAPA 39.02.43, “Rules Governing Registration and Title Fee Refunds,” and specifies provisions for the refund of title and registration fees on vehicles and/or motor vehicles. (12-26-90)

**002. -- 099. (RESERVED)**

**100. REQUEST FOR REFUND OF TITLE FEES.**

A refund will be granted if: (12-26-90)

**01. Withdrawal of Application.** The applicant requests the title application be withdrawn before the county assessor transmits the application to the Motor Vehicle Bureau; or (12-26-90)

**02. Process of Documents.** The title application has been mailed directly to the Motor Vehicle Bureau in Boise and the request is made before the documents are processed. (12-26-90)

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

**200. REQUEST FOR REFUND OF REGISTRATION FEES.**

**01. Refund Granted.** A refund may be granted if: (12-26-90)

**a.** The applicant can show the motor vehicle was registered in error by the Department or County; and (12-26-90)

**b.** All plates, stickers and registration certificates are returned to the County. (12-26-90)

**02. Refund Denied.** A refund shall not be granted if: (12-26-90)

**a.** An error by the Department or County in registering the motor vehicle exists but all plates, validation stickers and registration certificates are not returned to the Department. (12-26-90)

**b.** The motor vehicle is registered and: The registrant is incapacitated, out of state, in the armed forces, or is otherwise unable to operate the motor vehicle; or the motor vehicle is damaged, destroyed by accident or fire, or is no longer operational; or the registration is rescinded for any violation of the Uniform Motor Vehicle Registration Act or other provisions of Section 49-202 and Section 49-456, Idaho Code. (12-26-90)

**03. Mailing and Handling Fees.** The decision to refund the administrative mailing and handling fees for valid refund requests shall be determined by individual counties. (12-26-90)

**201. -- 999. (RESERVED)**

**39.02.45 – RULES GOVERNING FEES FOR LAPSED REGISTRATION PERIODS**

**000. LEGAL AUTHORITY.**

This rule is adopted under the authority of Sections 49-201 and 49-401, Idaho Code. (12-26-90)

**001. TITLE AND SCOPE.**

This rule is titled IDAPA 39.02.45, “Rules Governing Fees for Lapsed Registration Periods,” and ensures an applicant for motor vehicle registration renewal will not be charged for time periods when the registration was allowed to lapse beyond the current registration period. (12-26-90)

**002. -- 099. (RESERVED)**

**100. GENERAL PROVISIONS.**

**01. Expired Registration Renewal.** An applicant for motor vehicle registration renewal shall be assessed registration fees for the current registration period only. Registration fees shall not be assessed retroactively for any time period following expiration of a former registration period. (12-26-90)

**02. Expired License Plate Renewal.** The applicant’s license plate may be used for renewal under the following conditions: (12-26-90)

- a. The license plate was originally issued to the applicant. (12-26-90)
- b. The license plate is designed and numbered correctly. (12-26-90)
- c. The license plate is in serviceable condition. (12-26-90)

**101. -- 999. (RESERVED)**



## 39.02.70 – RULES GOVERNING RESTRICTED DRIVING PERMITS

### 000. LEGAL AUTHORITY.

Under authority of Sections 18-8002A, 49-325, and 49-326, Idaho Code, the Idaho Transportation Board adopts the following Rule for the issuance of Restricted Driving Permits for licensed drivers who face certain suspension or revocation of driving privileges in the state of Idaho. (3-29-12)

### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.02.70 “Rules Governing Restricted Driving Permits,” IDAPA 39, Title 02, Chapter 70. (3-29-12)

**02. Scope.** This rule contains guidelines for issuance of non-commercial restricted driving privileges for those individuals whose driving privileges have been suspended or revoked under authority of Idaho law; and establishes minimum standards for the issuance, denial and cancellation of non-commercial Restricted Driving Permits pursuant to Sections 18-8002A, 49-325 and 49-326, Idaho Code. (3-29-12)

### 002. -- 099. (RESERVED)

### 100. ELIGIBILITY.

In establishing these standards, the Idaho Transportation Board has determined that individuals eligible for restricted driving privileges in the state of Idaho must meet three (3) general criteria: (8-31-89)

**01. Need.** It must be shown that driving privileges are essential to maintain a livelihood and/or to provide necessities of life; (8-31-89)

**02. Safety.** It must be shown that restricted driving privileges will not jeopardize the safety of the traveling public; and (8-31-89)

**03. Rehabilitation.** It must be shown that restrictions upon a person’s driving privileges would improve the person’s driving skills and habits. (8-31-89)

### 101. -- 199. (RESERVED)

### 200. DURATION AND EXPIRATION OF RESTRICTED DRIVING PERMIT.

**01. Duration and Expiration.** The Restricted Driving Permit shall remain in effect for the period of time the driver’s privileges have been suspended or revoked unless canceled by the department or otherwise provided by law. (3-29-12)

**02. Reinstatement Action.** Satisfactory completion of the terms and conditions of the Restricted Driving Permit will be noted in the driving records of the participant as maintained by the Department, and the Department shall reinstate the applicant’s regular driving privileges at the expiration of the Restricted Driving Permit if he has complied with all conditions of the Restricted Driving Permit and reinstatement requirements. Any convictions or notices of suspension or revocation shall remain a part of the driver’s file. (3-29-12)

### 201. -- 299. (RESERVED)

### 300. RESTRICTED DRIVING PERMITS MAY BE ISSUED.

The Department may only issue Restricted Driving Permits to individuals whose driving privileges have been suspended or revoked for: (10-1-94)

**01. Reckless Driving.** Conviction of reckless driving per Sections 49-1401 and 49-326(1)(f), Idaho Code. (3-29-12)

**02. Fleeing or Eluding an Officer.** Conviction of fleeing or attempting to elude a peace officer per Sections 49-1404 and 49-326(1)(f), Idaho Code. (3-29-12)

**03. Points.** Accumulation of excessive “point” violations per Sections 49-326(1)(i) and (j), Idaho Code. (3-29-12)

**04. Leaving Scene of Accident.** Conviction of leaving the scene of an accident involving damage to a

vehicle per Sections 49-1301, and 49-326(1)(l), Idaho Code. (3-29-12)

**05. Using Motor Vehicle.** Conviction of using a motor vehicle in the commission of a felony per Section 49-325(1)(b), Idaho Code. (3-29-12)

**06. Offense in Another State.** Conviction of an offense in another state that would be grounds for suspension/revocation in this state per Section 49-326(1)(e), Idaho Code. (3-29-12)

**07. Restricted License.** Conviction of violation of a restricted license per Sections 49-317 and 49-326(1)(k), Idaho Code. (3-29-12)

**08. Administrative License Suspension.** An administrative suspension of driving privileges for a first-time failure of an evidentiary test for the last sixty (60) days of that suspension, for Class D privileges only per Section 18-8002A, Idaho Code. (3-29-12)

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

**400. RESTRICTED DRIVING PERMITS SHALL NOT BE ISSUED.** Restricted Driving Permits shall not be issued by the Department to: (8-31-89)

**01. Privileges Suspended.** Individuals who have had their driving privileges suspended or revoked by the Court and/or Department three (3) or more times during the three (3) year period prior to the effective date of the current suspension. (10-1-94)

**02. Like Offense.** Individuals who have been issued a Restricted Driving Permit by the Department or by an Idaho Court for a like offense within a previous two (2) year period prior to the effective date of the current suspension or revocation. (10-1-94)

**03. Violation of Restrictions.** An individual found to be in violation of restrictions on any court or Department-issued permit. (3-29-12)

**04. Revoked Out-of-State Drivers.** An individual who was an out-of-state resident at the time driving privileges were revoked or suspended in that state or any other state. (10-1-94)

**05. Under Seventeen.** An individual who is not at least seventeen (17) years of age at the time of issuance of the permit. (3-29-12)

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

**500. GENERAL APPLICATION PROCEDURE FOR A NON-COMMERCIAL RESTRICTED DRIVING PERMIT.**

**01. Applicant Submissions.** Applicant must submit the following before their suspension or revocation is stayed: (10-1-94)

**a.** Completed Form No. ITD-3227, Application for Restricted Driving Permit; (8-31-89)

**b.** Completed Form No. ITD-3208, Work Verification; (8-31-89)

**c.** Proof of motor vehicle liability insurance coverage in the amount required by Idaho law to cover any and all vehicles to be used by the applicant; (3-29-12)

**d.** All applicable reinstatement requirements must be satisfied; (3-29-12)

**e.** A non-refundable application fee pursuant to Section 49-306, Idaho Code; (3-29-12)

**02. Written Agreement.** If the Department determines that an applicant is eligible for a non-

commercial Restricted Driving Permit, the applicant must then sign written agreements, prepared by the Department, affirming that: (3-29-12)

- a. Cause exists to suspend or revoke the driver's license or privileges of the applicant and that the driver's license of the applicant is suspended or revoked; (3-29-12)
- b. The applicant shall obey all motor vehicle laws; (10-1-94)
- c. The applicant shall provide and maintain adequate motor vehicle liability insurance; (10-1-94)
- d. The applicant shall notify the Department within one (1) business day following arrest, citation, accident or warnings by any law enforcement officer with regard to motor vehicle violations or alleged violations, and any change of address, telephone number, place of employment; (3-29-12)
- e. The applicant shall not operate any motor vehicle after consuming any alcohol, drugs, or other intoxicating substances; (3-19-99)
- f. The applicant shall submit to any evidentiary testing to determine alcohol concentration at any time at the request of any peace officer; (9-14-92)
- g. The applicant shall operate a motor vehicle only for those reasons specified on the Restricted Driving Permit (See Section 600); (10-1-94)
- h. The applicant shall abide by all rules and regulations concerning the Restricted Driving Permit; (8-31-89)
- i. The applicant's Restricted Driving Permit may be cancelled by the Department without a hearing for violation of the terms of the agreement or other conditions specified on the Restricted Driving Permit; and (10-1-94)
- j. The applicant understands that if, while driving on a Restricted Driving Permit, he/she receives an additional Department or court suspension that results in cancellation of the restricted permit, the applicant will not be eligible to receive another Restricted Driving Permit for said suspension. (10-1-94)

**03. Restricted Driving Permit Approval.** Approval will be given and a Restricted Driving Permit shall be issued if the following conditions are met: (7-1-94)

- a. Submission and approval of all requirements listed in Subsection 500.01; and (10-1-94)
- b. No other suspensions or revocations are in effect which preclude issuance of a Restricted Driving Permit. (10-1-94)

**501. -- 599. (RESERVED)**

**600. DRIVING RESTRICTIONS SPECIFIED.**

The Department may impose the following restrictions upon an applicant's driving privileges and such restrictions shall be specified on the Restricted Driving Permit: (10-1-94)

- 01. Operation of Vehicle.** Time of operation of a motor vehicle, i.e. restricted to certain days, or hours of a day. (8-31-89)
- 02. Geographic Area.** Geographic limitations within limits of states, counties, cities. (8-31-89)
- 03. Purpose of Permit.** Purposes of travel such as to and from employment, to and from counseling sessions, to and from medical appointments, to and from grocery store, church, etc. (10-1-94)
- 04. Purpose of Permit Administrative License Suspension.** To travel to and from work and for work

purposes, to attend an alternative high school, work on a GED, for post-secondary education, or to meet the medical needs of the person or their family. (3-19-99)

**601. -- 699. (RESERVED)**

**700. CANCELLATION OF RESTRICTED DRIVING PERMIT.**

The Department may cancel a Restricted Driving Permit and shall re-activate the suspension or revocation order which will expire according to the original order if: (10-1-94)

**01. Violation of Terms.** There is a violation of terms of the written driver's agreement set forth in Section 500.02. herein. (8-31-89)

**02. Violation of Restrictions.** There is a violation of any of the restrictions set forth in the applicant's Restricted Driving Permit, see Section 600. (10-1-94)

**701. -- 999. (RESERVED)**

## 39.02.71 – RULES GOVERNING DRIVER’S LICENSE VIOLATION POINT SYSTEM

### 000. LEGAL AUTHORITY.

Under authority of Sections 49-201 and 49-326, Idaho Code, the Idaho Transportation Board adopts the following rule for Violation Point Count System for drivers licensed in Idaho. (7-20-89)

### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.02.71, “Rules Governing Driver’s License Violation Point System.” (3-30-01)

**02. Scope.** It is the purpose of this rule to establish guidelines for the implementation of a driver’s license violation point system for drivers convicted of moving traffic violations and convictions. (3-30-01)

### 002. -- 099. (RESERVED)

### 100. VIOLATION POINT COUNT SYSTEM.

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

**02. Violation Point Count List.** The following violation point count list includes moving violations and infractions in Idaho Code, and the appropriate sections. Convictions of moving violations and infractions not herein listed which are violations of a state law or municipal ordinance will receive three (3) violation points, except those for which mandatory suspension/revocation is required by statute or the statute provides a point exemption. (1-1-14)

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

**04. Dual Violation.** In cases where the driver is convicted of more than one (1) violation arising from one (1) occasion of arrest or citation, only one (1) conviction will be counted and assessed points against the driver’s record. The conviction counted will be the one with the greater amount of points. (1-1-14)

**05. Speeding Violation.** Drivers convicted of traveling sixteen (16) miles per hour or more over the posted maximum speed limit or exceeding the speed limit in a work zone will receive four (4) points. Driving convictions of other speeding violations will receive three (3) points. (1-1-14)

**06. Exemptions.** No points will be assessed to an Idaho driving record for texting as defined per Section 49-1401A(2), Idaho Code, and Safety Restraint Use as defined per Sections 49-673(3) and (4), Idaho Code. (1-1-14)

### 101. -- 199. (RESERVED)

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

Idaho Code	Convictions Reported by Court	Point Count
49-603	Starting Parked Vehicle	Two (2)
49-604	Limitations on Backing	One (1)
49-605	Driving Upon Sidewalk	Three (3)
49-606	Coasting Prohibited	Two (2)
49-612	Obstruction to Driver's View or Driving Mechanism	Three (3)

<b>Idaho Code</b>	<b>Convictions Reported by Court</b>	<b>Point Count</b>
49-614	Stopping When Traffic Obstructed	One (1)
49-615	Drivers to Exercise Due Care	Three (3)
49-616	Driving through Safety Zone Prohibited	Two (2)
49-619	Slow Moving Vehicles	Two (2)
49-623(4)	Authorized Emergency or Police Vehicles	Three (3)
49-624	Duty Upon Approaching a Stationary Police Vehicle or an Emergency Vehicle Displaying Flashing Lights	Three (3)
49-625	Operation of Vehicles on Approach of Authorized Emergency or Police Vehicles	Three (3)
49-626	Following Fire Apparatus Prohibited	Three (3)
49-627	Crossing Fire Hose	One(1)
49-630	Drive on Right Side of Roadway - Exceptions	Three (3)
49-631	Passing Vehicles Proceeding in Opposite Directions	Two (2)
49-632	Overtaking a Vehicle on Left	Three (3)
49-633	When Passing on the Right Is Permitted	Two (2)
49-634	Limitations on Overtaking on the Left	Three (3)
49-635	Further Limitations on Driving on Left of Center of Highway	Three (3)
49-636	One-Way Highways	One (1)
49-637	Driving on Highways Laned for Traffic	One (1)
49-638	Following Too Closely	Three (3)
49-639	Turning Out of Slow Moving Vehicles	Two (2)
49-640	Vehicles Approaching or Entering Unmarked or Uncontrolled Intersection	Three (3)
49-641	Vehicle Turning Left	Three (3)
49-642	Vehicle Entering Highway	Three (3)
49-643	Highway Construction and Maintenance	Three (3)
49-644	Required Position and Method of Turning	Three (3)
49-645	Limitations on Turning Around	Three (3)
49-648	Obedience to Signal Indicating Approach of Train	Four (4)
49-649	Compliance with Stopping Requirement at All Railroad Grade Crossings	Four (4)
49-650	Moving Heavy Equipment at Railroad Grade Crossings	Three (3)
49-651	Emerging from Alley, Driveway or Building	Three (3)
49-652	School Safety Patrols – Failure to Obey Unlawful	Three (3)
49-654	Basic Rule and Maximum Speed Limits	Three (3) Four (4)
49-655	Minimum Speed Regulation	Three (3)

<b>Idaho Code</b>	<b>Convictions Reported by Court</b>	<b>Point Count</b>
49-656	Special Speed Limitations	Three (3) Four (4)
49-657	Work Zone Speed Limits	Four (4)
49-658	School Zone Speed Limit	Three (3)
49-663	Restricted Use of Neighborhood Electric Vehicles on Highways	Two (2)
49-673(3)&(4)	Safety Restraint Use	Exempt
49-702	Pedestrians' Right of Way in Crosswalks	Three (3)
49-706	Blind and/or Hearing Impaired Pedestrian Has Right-of-Way	Three (3)
49-707	Pedestrians' Right-of-Way on Sidewalks	Three (3)
49-801	Obedience to and Required Traffic Control Devices	Three (3)
49-802	Traffic Control Signal Legend	Three (3)
49-804	Flashing Signals	Three (3)
49-806	Lane Use Control Signals	Three (3)
49-807(2)	Stop Signs	Three (3)
49-807(3)	Failure to Yield – Signed Intersection	Three (3)
49-808	Turning Movements and Required Signals	Three (3)
49-1302	Duty to Give Information in Accident Involving Damage to a Vehicle	Four (4)
49-1303	Duty Upon Striking Unattended Vehicle	Four (4)
49-1304	Duty Upon Striking Fixtures Upon or Adjacent to a Highway	Four (4)
49-1401(3)	Inattentive Driving	Three (3)
49-1401A	Texting While Driving	Exempt
49-1419	Obedience to Traffic Direction	Two (2)
49-1421(1)	Driving on Divided Highways	One (1)
49-1421(2)	Restricted Access	One (1)
49-1422	Overtaking and Passing School Bus	Four (4)
49-1424	Racing on Public Highways	Four (4)

(3-28-18)

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

**300. SUSPENSION OF LICENSE.**

**01. Twelve Points.** When a driver accumulates twelve (12) or more points in any twelve (12) month period of time, the suspension period shall be for thirty (30) days. (7-20-89)

**02. Eighteen Points.** When a driver accumulates eighteen (18) or more points within any twenty-four (24) month period of time, the suspension period shall be for ninety (90) days. (7-20-89)

**03. Twenty-Four Points.** When a driver accumulates twenty-four (24) or more points within any

thirty-six (36) month period of time, the suspension period shall be for six (6) months. (7-20-89)

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

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

**01. Removal of Points Upon Completion of Defensive Driving Class or Traffic Safety Education Program.** Three (3) points may be removed from an Idaho driving record upon the driver's completion of an approved defensive driving class or points may be removed from an infraction upon the driver's completion of an approved traffic safety education program. Points may only be removed from a driver's record once every three (3) years. This time restriction begins on the completion date of either a defensive driving class or traffic safety education program. (1-1-14)

**a.** For completion of a defensive driving class, points are only removed from the violation point count total on the driving record. (1-1-14)

**b.** For completion of a traffic safety education program as provided in Section 50-336, Idaho Code, points are removed from the conviction for which the traffic safety education program was taken. (1-1-14)

**02. Driving Conviction Cannot Be Removed.** A driver may not remove a driving conviction from his record by attending a defensive driving class or a traffic safety education program. (1-1-14)

**03. Suspension for Excessive Points.** Once the department has suspended a driver for excessive points, that driver may not waive the suspension action by attending a defensive driving class or traffic safety education program. (1-1-14)

**04. Driver May Not Reserve Point Reduction.** When a driver completes a defensive driving class or traffic safety education program but has no violation points on his driver record, he may not reserve a point reduction for use on a future point-assessing violation. (1-1-14)

**401. -- 999. (RESERVED)**



## 39.02.72 – RULES GOVERNING ADMINISTRATIVE LICENSE SUSPENSIONS

### 000. LEGAL AUTHORITY.

In accordance with Section 18-8002A, Idaho Code, the Idaho Transportation Board adopts the following rule governing Administrative License Suspensions (ALS). (10-1-94)

### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.02.72, “Rules Governing Administrative License Suspensions.” (4-5-00)

**02. Scope.** The purpose of this Rule is to establish driver’s license suspension procedures for persons driving under the influence of alcohol or other intoxicating substances as indicated by an evidentiary test of blood, breath, or urine, pursuant to Section 18-8002A, Idaho Code. This rule also includes the procedures for administrative hearings to review the propriety of administrative license suspensions. (4-5-00)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

**01. Petitioner.** A person who has been served with a Notice of Suspension pursuant to Section 18-8002A, Idaho Code. (10-1-94)

**02. Received by the Department.** A document that has been: (10-1-94)

**a.** Personally delivered to the Department’s Driver Services Section at 3311 W. State Street, Boise, Idaho; or (10-1-94)

**b.** Delivered by mail and addressed to P.O. Box 7129, Boise, ID 83707-1129; or (10-1-94)

**c.** Transmitted by facsimile machine to telephone number (208) 332-4124. (3-29-12)

**d.** Sent by e-mail to [driverrecords@itd.idaho.gov](mailto:driverrecords@itd.idaho.gov). (3-29-12)

**03. Business Days.** All days of the week except Saturday, Sunday, and legal holidays as defined by Section 73-108, Idaho Code. (10-1-94)

**04. Certified Copy.** A reproduction of an original record that has been certified by a custodian of such record to be a true and accurate copy. (10-1-94)

**05. Duplicate Original.** A counterpart produced by the same impression as the original, or from the same matrix. (3-19-99)

**06. Evidentiary Test.** An analysis of blood, breath, or urine to determine the presence of alcohol, drugs, or other intoxicating substances. (10-1-94)

### 011. -- 099. (RESERVED)

### 100. HEARING REQUESTS.

**01. Written Requests.** Hearing requests must be made in writing. Hearing requests must contain the following information: (10-1-94)

**a.** The petitioner’s full name, complete mailing address, and telephone number where hearing will be conducted; (3-19-99)

**b.** The driver’s license number; (10-1-94)

**c.** The petitioner’s date of birth; (10-1-94)

**d.** The date of arrest; (10-1-94)

- e. A brief statement of the issues the petitioner proposes to raise at the hearing; and (10-1-94)
- f. Any dates or times that the petitioner or attorney cannot be available for the hearing. (10-1-94)

**02. Timely Requests.** Hearing requests must be received by the Department no later than 5 p.m. of the seventh day following the service of the Notice of Suspension. Hearing requests received after that time will be considered untimely. The Department shall deny an untimely hearing request unless the petitioner can demonstrate that a request should be granted. (10-1-94)

- 03. Request Withdrawal.** Petitioners may withdraw their hearing requests at any time. (10-1-94)

**101. HEARING NOTICES.**

**01. Notification.** Upon timely receipt of hearing requests, the Department will notify petitioners of the time and date of the hearing as soon as practicable, but no later than seven (7) days prior to the hearing. Hearing notices will be mailed or e-mailed to the address provided in the hearing requests, or if no address was provided, notices will be mailed to the most current address contained in the petitioner's driver's license records. (3-29-12)

**02. Hearings Conducted by Telephone.** Hearings will be conducted by telephone unless the hearing officer will determine that the petitioner or other participant would be denied the opportunity to participate in the entire hearing if held by telephone. Face to face hearings will be held in Ada County (or other locations within the state as may be determined by the Department). (3-19-99)

**03. Hearing Date.** Hearings shall be conducted within twenty (20) days of receipt of the hearing request. However, the Hearing Officer may extend the hearing date for one (1) ten (10) day period upon a showing of good cause. Such extension shall not stay the suspension. (3-29-12)

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

**200. DOCUMENT SUBMISSION.**

**01. Forwarding Documents to the Department.** Upon service of a Notice of Suspension, a law enforcement agency shall, in accordance with Section 18-8002A, Idaho Code, forward the following documents to the Department within five (5) business days: (3-19-99)

- a. Notice of Suspension. (3-29-12)
- b. The sworn statement of the officer incorporating any arrest or incident reports relevant to the arrest and evidentiary testing. (10-1-94)
- c. A certified copy or duplicate original of the test results or log of test results if the officer has directed an evidentiary test of the petitioner's breath. (3-19-99)

**02. Compliance.** The documents shall be considered forwarded in a timely manner if they are postmarked within five (5) business days of the date of service of the Notice of Suspension or are accompanied by a certificate, certifying the documents were deposited with: (3-19-99)

- a. The United States mail or overnight delivery service; or (10-1-94)
- b. Hand delivered, within five (5) business days of the date of service of the suspension notice. (3-19-99)

**03. Blood and Urine Tests.** If an evidentiary test of blood or urine was administered rather than a breath test, the Notice of Suspension shall not be served until the results of the test are obtained. In such cases, the peace officer may forward the sworn statement and accompanying reports to the Department and the Department shall have the responsibility of serving the Notice of Suspension, if necessary. (10-1-94)

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

**300. SUBPOENAS.**

**01. Request.** The Hearing Officer assigned to the matter may, upon written request, issue subpoenas requiring the attendance of witnesses or the production of documentary or tangible evidence at a hearing. (10-1-94)

**02. Serving Subpoenas.** Parties requesting subpoenas shall be responsible for having the subpoenas served. Witnesses shall not be compelled to attend and testify at hearings unless served with subpoenas at least one hundred and twenty (120) hours prior to the time of hearing. (3-29-12)

**03. Proof of Service.** Parties responsible for service of the subpoena shall provide proof of service of the subpoena prior to the scheduled hearing. (3-29-12)

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

**400. DOCUMENT DISCOVERY.**

**01. Obtaining Photocopies.** To obtain a photocopy of a document which is public record, relates to the petitioner hearing, and is in the possession of the Department, petitioners shall make a written request to the Department. The Department shall attempt to provide the requested copies prior to the hearing date, but failure to do so shall not be grounds for staying or rescinding a suspension. (10-1-94)

**02. Further Document Discovery.** Further discovery shall only be conducted in accordance with IDAPA 04.11.01.521, "Idaho Rules of Administrative Procedure of the Attorney General." (10-1-94)

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

**500. RECORDS OF PROCEEDINGS.**

**01. Required Records.** The Hearing Officer shall make a record of hearing proceedings. This record shall consist of: (10-1-94)

**a.** An audio recording of the hearing, except in instances where the Hearing Officer authorizes a different method of reporting the hearing. (3-29-12)

**b.** Exhibits and other items of evidentiary nature. (10-1-94)

**02. Requesting Copies.** Any party may make a written request for a copy of the audio recording of the hearing from the Department. The requesting party shall reimburse the Department for the actual cost of providing the copy. (3-29-12)

**501. -- 599. (RESERVED)**

**600. FINAL ORDER REQUEST FOR RECONSIDERATION.**

The Hearing Officer shall make Findings of Fact, Conclusions of Law and Order either sustaining or vacating the license suspension in question. The Findings of Fact, Conclusions of Law and Order shall be the final order of the Department. A request for reconsideration must be made within fourteen (14) days of the issuance of the Findings of Fact, Conclusions of Law and Order. The request for reconsideration shall contain a request to submit new evidence if the party wishes the hearing officer to consider any new evidence. (3-19-99)

**01. Issuing Facts and Findings.** The Hearing Officer shall issue the Findings of Fact, Conclusions of Law and Order following the hearing. (3-29-12)

**02. Mailing Final Order.** The Findings of Fact, Conclusions of Law and Order is issued when a copy is deposited in the United States Mail addressed to the petitioner or the petitioner's attorney or e-mailed to the petitioner or the petitioner's attorney. (3-29-12)

**601. -- 699. (RESERVED)**

**700. FAILURE TO APPEAR.**

**01. Proposed Order of Default.** Should the petitioner fail to appear at the scheduled hearing, either in person or through an attorney, the Hearing Officer shall promptly issue a notice of proposed order of default. This notice is deemed served when mailed or e-mailed to the petitioner or petitioner's attorney at the address shown in the request for hearing, or if no address was provided, the notice shall be mailed to the most current address contained in the petitioner's driver's license records. (3-29-12)

**02. Filing Petition.** The petitioner may, within seven (7) days of service of the notice of proposed order of default, file a petition requesting that the order of default not be entered and stating the grounds for such a request. If the Hearing Officer grants the petitioner's request, the hearing shall be rescheduled. Granting the petitioner's request shall not stay or vacate the suspension. (3-29-12)

**03. Denied Petitions.** If the Hearing Officer denies the petitioner's request that the default order not be entered, the Hearing Officer shall make a determination to sustain or vacate the suspension based upon the documentary record submitted by the Department. (10-1-94)

**04. Attending a Hearing.** A petitioner or witness shall be deemed to have appeared if present within fifteen (15) minutes after the time the Hearing Officer is ready to begin the hearing. In the case of a telephone hearing, the petitioner or witness shall be deemed to have appeared if contacted by telephone on the second attempt to do so within a fifteen (15) minute period from the commencement of the hearing. (3-19-99)

**701. -- 799. (RESERVED)**

**800. FORMS.**

The Department shall develop appropriate forms to be used throughout the state including, but not limited to, forms for Notice of Suspension and officer's sworn statement. Each law enforcement agency shall use the forms supplied by the Department in carrying out the requirements of Section 18-8002A, Idaho Code, and this Rule. However, the sworn statement may be in the form of a law enforcement agency's affidavit of probable cause or equivalent document, so long as it contains the elements required by Section 18-8002A, Idaho Code. (3-29-12)

**801. -- 999. (RESERVED)**

## 39.02.73 – RULES GOVERNING ACCIDENT PREVENTION COURSE

### 000. LEGAL AUTHORITY.

Under authority of Sections 49-201 and 41-2515, Idaho Code, the Idaho Transportation Board adopts the following rule for criteria for a motor vehicle accident prevention course. (8-31-89)

### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.02.73 “Rules Governing Accident Prevention Course,” IDAPA 39, Title 02, Chapter 73. (5-3-03)

**02. Scope.** This rule establishes minimum standards for approval of a motor vehicle accident prevention course, as provided in Section 41-2515, Idaho Code. (3-30-07)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

**01. Accident Prevention Course.** A structured course of study, either in a traditional classroom setting, field driving or internet based format, with curriculum focusing on becoming a safer driver and avoiding accidents, by being cautious, aware, responsible, and respectful of other drivers while abiding by Idaho’s rules of the road. The terms “accident prevention course” and “defensive driving class” are interchangeable, and the course standards established for the accident prevention course in this rule shall be the same standards for the defensive driving class for violation point count reduction as provided in IDAPA 39.02.71, “Rules Governing Driver’s License Violation Point Count System.” (3-30-07)

### 011. -- 099. (RESERVED)

### 100. CRITERIA.

**01. Instructor Certification.** For classroom and field driving instruction, instructors must be certified by the Idaho Department of Education as a Driver and Traffic Safety Education instructor, or the National Safety Council, American Automobile Association’s program (AAA), American Association of Retired Persons (AARP), or an equivalent program, as determined by the Idaho Transportation Department. (5-3-03)

**02. Contents of Course.** Other than courses provided by the National Safety Council, AAA, or AARP, all accident prevention course outlines must be approved by the Idaho Transportation Department. (5-3-03)

**03. Length of Class.** The course must be a minimum of six (6) hours, which may include any combination of classroom instruction, field driving instruction, or on-line instruction time. (5-3-03)

**04. Proof of Insurance.** For field driving instruction, if any, the course provider must confirm adequate proof of insurance. (5-3-03)

**05. Provider Location.** The course provider must confirm location(s) of established place of business, and a telephone number or e-mail address of a contact person who can be reached during regular working hours 8 a.m. to 5 p.m. (5-3-03)

**06. Participant Certification.** Each participant shall be issued a certificate of completion by the instructor or course provider. (5-3-03)

### 101. -- 199. (RESERVED)

### 200. COURSE REVIEW.

Accident Prevention Courses are subject to periodic review by the Department. As a part of the review process, the provider may be asked to confirm course and instructor information and resubmit instruction materials. (5-3-03)

### 201. WITHDRAWAL OF COURSE APPROVAL.

The Department may withdraw course approval if minimum standards are no longer met or if course providers have failed to respond to a course review. In the event the Department proposes to withdraw approval for a course, written notification will be sent to the provider. Requests for reconsideration will be reviewed by the Motor Vehicle Administrator. (5-3-03)

### 202. -- 999. (RESERVED)

## 39.02.75 – RULES GOVERNING NAMES ON DRIVERS' LICENSES AND IDENTIFICATION CARDS

### 000. LEGAL AUTHORITY.

Under the authority of Sections 49-201, 49-306, 49-315, 49-318, 49-319, and 49-2443, Idaho Code, the Department adopts the following rule. (3-29-12)

### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.02.75 “Rules Governing Names on Drivers’ Licenses and Identification Cards,” IDAPA 39, Title 02, Chapter 75. (4-2-08)

**02. Scope.** The purpose of this rule is to provide procedures and criteria for County Sheriffs and the Idaho Transportation Department to record and format names, and to allow surnames and hyphenated names on drivers’ licenses and identification cards. (4-2-08)

### 002. -- 099. (RESERVED)

### 100. GENERAL PROVISIONS.

**01. Punctuation Marks.** The only punctuation marks which may be used in a name are the comma (,), apostrophe (’), and the hyphen (-). A hyphen is allowed in the last name only, and may occur once. A comma can only be used between the last name and the first name. (4-2-08)

**02. Full Name Requirements.** If a full name has more characters than the department automated system allows, the last name and first name must be written out fully. The middle name can be initialized and then the full middle name entered on the comment line of the application. If there is a designator, it will follow the middle initial. If the name still has more characters than the department automated system allows, the first and middle names can be initialized and the full first and middle names entered on the comment line of the application. (3-29-12)

### 101. -- 199. (RESERVED)

### 200. CRITERIA.

**01. Legal Name.** The name on the certified original birth certificate will be used unless a name changes due to: (3-29-12)

- a. Marriage; (5-13-91)
- b. Divorce; or (5-13-91)
- c. Court Order. (5-13-91)

**02. Stepparents' Name.** An applicant is not allowed to use a stepparent’s last name, except by court order or other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (7-1-96)

**03. Driver’s License and Identification Card Names.** The name printed on the driver’s license or identification card will be maintained in the Idaho Transportation Department records in the following order: (1) Last name, (2) First name, (3) Middle name, (4) Designator (if applicable (see Subsection 200.04)). An applicant may not have a driver’s license and an identification card in different names. An applicant may add a middle name by providing a certified original copy of the applicant’s: (3-29-12)

- a. Birth Certificate; (3-29-12)
- b. Court Order; or (3-29-12)
- c. Divorce Decree. (3-29-12)

**04. Designations of Names.** The designations of I, II, III, etc., will become first (1st), second (2nd), third (3rd), etc., and will appear after the middle name. The designators of JR and SR (no periods allowed) will be permitted and will appear after the middle name. The JR and SR designators will be permitted only if there is proof that the other individual exists, by way of an original certified copy of a birth certificate. (7-1-96)

- 05. Married Applicant's Name.** (3-29-12)
- a.** A married applicant is permitted to use the maiden name of the woman or surname of the man as the last name or as the middle name, or may hyphenate the surname and maiden name to form the last name. In no case under any of these stated options shall any applicant have more than one (1) hyphen in his or her last name. (3-29-12)
- b.** When married applicants choose to use different hyphenated names or only one (1) applicant chooses to hyphenate his or her name, a woman will hyphenate her last name as "maiden-married" and a man will hyphenate his last name as "surname-maiden". (3-29-12)
- c.** Married applicants who choose to have the same hyphenated last name may hyphenate their name as either "maiden-married" or "surname-maiden". (4-2-08)
- d.** Married applicants who already have hyphenated last names may: (3-29-12)
- i.** Use the hyphenated name of the man or the hyphenated name of the woman; or (3-29-12)
- ii.** Combine part of the hyphenated name of the man and part of the hyphenated name of the woman. (3-29-12)
- e.** An applicant who is established in department records with a hyphenated last name due to marriage and wants to drop the first part or the second part of the hyphenated name must provide, as required by the department, the following: (3-29-12)
- i.** A certified copy of a birth certificate; and/or (3-29-12)
- ii.** A certified copy of a marriage certificate; and/or (3-29-12)
- iii.** A certified copy of a divorce decree; and/or (3-29-12)
- iv.** A certified copy of a death certificate. (3-29-12)
- 06. Divorced Applicant's Name.** A divorced applicant who wants to use his or her original surname or maiden name, or a surname from a previous marriage, but does not have a divorce decree indicating the new name, is allowed to submit the following documents to the County Sheriff or the Idaho Transportation Department: (3-29-12)
- a.** Original certified copy of the birth certificate showing the original maiden or surname; or (3-29-12)
- b.** Original certified copies of the marriage certificate and the divorce decree, as evidence to change the name. (3-29-12)
- 07. Applicant's First Name.** An applicant is not allowed to change his or her first name except by court order. (5-13-91)
- 08. Common Law Marriage.** Common law marriages created prior to January 1, 1996 will, for the purposes of this rule, be treated as a valid marriage. An affidavit of agreement is required, which includes: (7-1-96)
- a.** The signatures of both the husband and the wife; (5-31-91)
- b.** The date they became married under common law; and (5-13-91)
- c.** Other documents verifying the marriage (subject to the approval of the Idaho Transportation Department). (5-13-91)

**09. Change of Name on Record.** Once a name is established in the Idaho Transportation Department records, a court order, marriage license, or divorce decree will be required to change the name and record. (3-29-12)

**10. Titles or Nicknames.** An applicant is not allowed to use titles or nicknames. (7-1-96)

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

**300. PROCEDURES.**

**01. Verification of Name.** First-time applicants for a driver's license or identification card must provide the County Sheriff's issuing office with one (1) of the following in order to verify their name: (5-13-91)

**a.** Original certified copy of the birth certificate; (7-1-96)

**b.** Court order; (5-13-91)

**c.** Original certified copy of the marriage license; or (7-1-96)

**d.** Divorce decree (if applicable); or (7-1-96)

**e.** Driver's license from another state or country that is current or if expired, has been expired for less than five (5) years. (7-1-96)

**02. Surrendering Driver's License or Identification Card.** Applicants for license or identification card renewals must surrender the previous driver's license or identification card. Name changes are allowed if the criteria in Section 200 are met. (7-1-96)

**03. Surrendering Duplicate Driver's License or Identification Cards.** Applicants for duplicate drivers' licenses or identification cards must surrender the previous driver's license or identification card (if applicable). Name changes are allowed if the criteria in Section 200 are met. (7-1-96)

**04. Document Approval by the Department.** Other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (5-13-91)

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



**39.02.76 – RULES GOVERNING DRIVER'S LICENSE RENEWAL-BY-MAIL  
AND ELECTRONIC RENEWAL PROCESS**

**000. LEGAL AUTHORITY.**

In accordance with Section 49-319(10), Idaho Code, the Idaho Transportation Board adopts the following rule to establish a process that may allow Idaho residents to renew their Class D drivers' licenses by mail or electronically. (3-29-12)

**001. TITLE AND SCOPE.**

**01. Title.** This rule is titled IDAPA 39.02.76, "Rules Governing Driver's License Renewal-by-Mail and Electronic Renewal Process". (3-29-12)

**02. Scope.** The purpose of this rule is to establish standards by which Class D drivers' licenses may be renewed by mail or electronically for those individuals who are licensed Idaho residents and whose licenses are about to expire. The driver's license renewal-by-mail and electronic systems are designed to reduce the length of driver's license renewal waiting lines at county driver's license offices. (3-29-12)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. CDL.** Commercial Driver's License. (7-1-96)

**02. Class D Driver's License.** A license issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in Section 49-123, Idaho Code. (7-1-96)

**03. Expiration Date.** The date a driver's license expires. (7-1-96)

**04. Photo License.** A valid Idaho driver's license displaying a color photograph of the license holder. (7-1-96)

**011. ELIGIBILITY.**

**01. Eligibility.** The renewal by mail or electronic renewal may be granted on the expiration date of a person's Idaho Class D driver's license, in lieu of requiring the person to renew a driver's license in person. Licenses renewed by mail or electronically shall only be renewed once in an eight (8) year period, and shall have a four-year validity period. (3-29-12)

**02. License Renewal.** Drivers' licenses shall not be renewed by mail or electronically for persons who: (3-29-12)

**a.** Hold a driver's license with a "J" restriction (e.g. limited to a five (5) mile driving radius of residence, driving privileges limited to one (1) or two (2) counties, cannot drive without parent for a specified time period, etc.); (7-1-96)

**b.** Have changes in the information shown on their licenses, other than address changes; (7-1-96)

**c.** Have any changes in physical, mental, and/or emotional condition, including vision, which may impair the ability to safely operate a motor vehicle; (7-1-96)

**d.** Have drivers' licenses or driving privileges which are suspended, revoked, canceled, denied, refused, or disqualified; (7-1-96)

**e.** Are operating on department or court restricted driving permits; (7-1-96)

**f.** Are required to provide documentation proving lawful presence in the United States; (3-29-12)

**g.** Are not lawfully present in the United States; (3-29-12)

**h.** Have a driving record which has been marked for special handling (e.g., verification of identity or date of birth, possible fraud, etc.); (7-1-96)

- i. Already have an existing extension; (7-1-96)
- j. Wish to add a motorcycle endorsement; (7-1-96)
- k. Are under twenty-one (21) years of age; or (7-1-96)
- l. Are seventy (70) years of age or older. (7-1-96)

**012. RENEWAL BY MAIL PROCEDURES.**

**01. Use of Fax or Phone Prohibited.** Driver’s license renewal-by-mail or electronic renewal applications shall not be processed by fax or telephone. Eligible persons must mail or electronically submit their driver’s license renewal application to the driver’s license office in their county of residence, or deliver their application in person together with the renewal fee for the same class of license, pursuant to Section 49-306, Idaho Code. (3-29-12)

**02. Updating Driving Records.** The county driver’s license office shall update driving records to reflect the new expiration year, followed by the notation “RM,” and issue a driver’s license to eligible licensees within three (3) business days after receipt of the completed application form. (3-29-12)

**03. If The Driver’s License Card Is Lost, Mutilated or Destroyed After Receipt.** If a driver’s license is lost, mutilated, or destroyed after the applicant receives it, the applicant must apply in person at the county office for a duplicate driver’s license. (3-29-12)

**04. If Lost or Destroyed in Mail.** If a drivers’ license is lost or destroyed in the mail, a written statement detailing the loss or destruction must be mailed or hand-delivered to the applicant’s county of residence. Upon receipt of the letter, the county can issue a no-charge replacement driver’s license to the applicant. (3-29-12)

**05. Temporarily Residing Out-of-State.** Individuals temporarily residing out-of-state may apply for a renewal by mail, electronic renewal, or an extension, but not both, in an eight (8) year period. (3-29-12)

**013. -- 999. (RESERVED)**

## 39.02.80 – RULES GOVERNING MOTOR CARRIER FINANCIAL RESPONSIBILITY

### 000. LEGAL AUTHORITY.

This rule is adopted under the authority of Section 49-1233(5) Idaho Code. (4-5-00)

### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.02.80, “Rules Governing Motor Carrier Financial Responsibility,” IDAPA 39, Title 02, Chapter 80. (4-5-00)

**02. Scope.** It is the purpose of this rule to establish the amount of liability coverage to be carried by motor carriers for personal injury suffered by one (1) person while being transported in a vehicle, any additional amounts for all persons receiving personal injury, and such amount for damage to the property of any person other than the insured. (4-5-00)

### 002. INCORPORATION BY REFERENCE.

The Idaho Transportation Board incorporates by reference 49 CFR 171.8, 49 CFR 172.101 and its appendix, 49 CFR 173.403, 49 CFR 387 and 49 CFR 387.5, published in the Code of Federal Regulations volume dated October 1, 1997. (4-5-00)

### 003. -- 009. (RESERVED)

### 010. DEFINITIONS.

**01. Common Carrier.** Any person who holds itself out to the general public to engage in the transportation by motor vehicle in commerce in the state of Idaho of passengers or property for compensation. (4-5-00)

**02. Contract Carrier.** Any person who, under individual contracts or agreements, engages in the transportation by motor vehicle of passengers or property in commerce in the state of Idaho for compensation. (4-5-00)

**03. Environmental Restoration.** Restoration for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water of any commodity transported by a motor carrier. This includes the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife. See 49 CFR 387.5. (4-5-00)

**04. Hazardous Material.** A substance or material, that has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. The term includes hazardous substances, hazardous wastes, marine pollutants, and elevated temperature materials and materials designated as hazardous under the provisions of 49 CFR 172.101, and materials that meet the defining criteria for hazard classes and divisions in 49 CFR 173. See 49 CFR 171.8. (4-5-00)

**05. Injury.** Harm to the body, sickness, or disease resulting from a motor carrier accident, including death from an injury. (4-5-00)

**06. Interstate Carrier.** Any person who owns or operates any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a foreign Nation, used or maintained for the transportation of persons or property. (4-5-00)

**07. Private Carrier.** Any person not included in the terms “common carrier” or “contract carrier” who or which transports in commerce in the state of Idaho by motor vehicle property of which such person is the owner, lessee, or bailee, when such property is for the purpose of sale, lease, rent or bailment, or in the furtherance of any commercial enterprise; provided, that a motor vehicle of a private carrier, not in excess of eight thousand (8,000) pounds gross vehicle weight, not engaged in the transport of a hazardous substance, shall be exempt from the provisions of the Motor Carrier Financial Responsibility Rules. (4-5-00)

**08. Property Damage.** Damage to or loss of use of tangible property. (4-5-00)

### 011. -- 019. (RESERVED)

**020. INSURANCE REQUIREMENTS.**

**01. Insurance Required.** No motor carrier subject to the jurisdiction of the Department may transport property or passengers until the carrier has obtained and has in effect the minimum levels of insurance or a surety bond set forth in this rule. (4-5-00)

**02. Passenger Carriers.** The minimum levels of insurance or surety bond coverage (for injury, death, or property damage) in any one (1) accident for common/contract passenger carriers are: (4-5-00)

**a.** For any vehicle with a seating capacity of twenty-five (25) passengers or more -- five million dollars (\$5,000,000); (4-5-00)

**b.** For any vehicle with a seating capacity of twenty-four (24) passengers or less -- one million, five hundred thousand (\$1,500,000). (4-5-00)

**03. Property Carriers -- Certain Risky or Perilous Cargoes.** The minimum levels of insurance or surety bond coverage (for injury, death, environmental restoration, or property damage in any one accident) for common and contract property carriers are: (4-5-00)

**a.** Five million dollars (\$5,000,000) for carriers of: (4-5-00)

i. Any quantity of Division 1.1, 1.2, or 1.3; (4-5-00)

ii. Any quantity of Division 2.3, Hazardous Zone A, or Division 6.1, Packing Group 1, Hazardous Zone A; (4-5-00)

iii. Highway route controlled quantity of Class 7 material as defined in 49 CFR 173.403; (4-5-00)

iv. Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of three thousand, five hundred (3,500) water gallons; (4-5-00)

v. Division 2.1 or 2.2 in bulk; (4-5-00)

**b.** One million dollars (\$1,000,000) for carriers of: (4-5-00)

i. Oil listed in 49 CFR 172.101; or (4-5-00)

ii. Hazardous waste, hazardous materials or hazardous substances as defined in 49 CFR 171.8 and listed in 49 CFR 172.101 or its Appendix, but not mentioned in Subsection 020.03.a. (4-5-00)

**04. Other Property Carriers.** The minimum level of insurance or surety bond coverage (for injury, death or property damage in any one (1) accident) for common and contract carriers of all other property (including drive away and tow away units transported by the carrier) is seven hundred fifty thousand dollars (\$750,000). (4-5-00)

**05. Private Carriers.** Private carriers must maintain the insurance required by Section 49-1229, Idaho Code, except private carriers transporting certain risky or perilous cargoes described in Subsection 020.03 must carry insurance as required by that Subsection. (4-5-00)

**021. CERTIFICATES OF INSURANCE.**

**01. Filing.** Common/contract carriers and interstate carriers who participate in the base state agreement by registering in Idaho as their base state must file with the Department certificates that the insurance or bond described by the certificate of insurance and required by Section 020 is in effect for the account of the motor carrier. (4-5-00)

**02. Forms.** The certificates for intrastate common/contract carriers must be either Form E, Form E-1 (available from the Department) or W.C. 3091 that is completed and signed by the insurance company's underwriting department or its authorized representative. For interstate carriers registered under the single state registration system the federal forms authorized by the U.S. Department of Transportation as set forth in Subpart C of 49 CFR 387. Surety bonds must be completed on a form provided by the Department. The Administrator of the Division of Motor Vehicles may prescribe additional forms as necessary. (4-5-00)

**03. Coverage.** Policies of insurance and surety bonds required and filed with the Department under IDAPA 39.02.80, "Rules Governing Motor Carrier Financial Responsibility," remain in effect as described on the certificate filed with the Department until terminated according to Section 49-1233(3), Idaho Code. When certificates of insurance on file with the Department show that insurance has lapsed, the Department shall refuse to renew the carrier's vehicle registrations or shall revoke the carrier's motor vehicle registrations under the authority of Section 49-202(10)(12), Idaho Code. (4-5-00)

**022. -- 999. (RESERVED)**

### 39.03.01 – RULES GOVERNING DEFINITIONS REGARDING SPECIAL PERMITS

#### 000. LEGAL AUTHORITY.

This rule is adopted under the authority of Section 40-312, Idaho Code. (7-1-19)

#### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.03.01, “Rules Governing Definitions Regarding Special Permits,” IDAPA 39, Title 03, Chapter 01. (7-1-19)

**02. Scope.** This rule gives the definitions for terms used in rules in IDAPA 39, Title 03 regarding special permitting. (7-1-19)

#### 002. -- 009. (RESERVED)

#### 010. DEFINITIONS.

**01. Accessories.** Additional parts of the single item load that have been removed to reduce width, length or height. (7-1-19)

**02. Administrative Cost.** The government’s cost of processing, issuing and enforcing a permit. (7-1-19)

**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. (7-1-19)

**04. Annual.** Twelve (12) consecutive months. (7-1-19)

**05. Automobile Transporter.** See Section 49-102, Idaho Code. (7-1-19)

**06. Base Width.** The measurement below the eaves of a manufactured home, modular building, or office trailer. (7-1-19)

**07. Boat Transporter.** See Section 49-103, Idaho Code. (7-1-19)

**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. (7-1-19)

**09. Convoy.** A group of two (2) or more motor vehicles traveling together for protection or convenience. (7-1-19)

**10. Department.** Idaho Transportation Department. (7-1-19)

**11. Designated Agent.** An employee or relative of the farmer. (7-1-19)

**12. Dromedary Tractor.** See Section 49-105, Idaho Code. (7-1-19)

**13. Economic Hardship.** The loss of a substantial amount of money caused by economic changes. (7-1-19)

**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. (7-1-19)

**15. Escort Vehicle.** See Pilot Vehicle. (7-1-19)

**16. Excess Weight.** Vehicle combinations hauling reducible loads operating on 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 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. (7-1-19)

**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, that normally haul reducible loads. (7-1-19)

**18. Extra-Ordinary Hazard.** Any situation where the traveling public's safety or the capacity of the highway system is endangered. (7-1-19)

**19. Farm Tractor.** See Section 49-107, Idaho Code. (7-1-19)

**20. Gross Vehicle Weight.** See Section 49-108, Idaho Code. (7-1-19)

**21. Heavily Loaded.** Exceeding legal weight or hauling a load that obstructs the driver's view. (7-1-19)

**22. Heavy Duty Wrecker Truck.** A motor vehicle designed and used primarily for towing disabled vehicles. (7-1-19)

**23. Height.** The total vertical dimension of a vehicle above the ground surface including any load and load-holding device thereon. (7-1-19)

**24. Implement of Husbandry.** See Section 49-110, Idaho Code. (7-1-19)

**25. Incidentally Operated.** See Section 49-110, Idaho Code. (7-1-19)

**26. Legal.** In compliance with the Idaho Code on size and weight. (7-1-19)

**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 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)

**28. Light Truck.** See Section 49-121, Idaho Code. (7-1-19)

**29. Longer Combination Vehicle (LCV).** Any combination of a truck-tractor and two (2) or more trailers or semi-trailers that operate on the National System of Interstate and Defense Highways with a gross vehicle weight (GVW) greater than thirty-six thousand two hundred eighty-eight (36,288) kilograms (eighty thousand (80,000) pounds). (7-1-19)

**30. Manufactured Home.** A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, that, 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 that 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 that meets all the requirements of this subsection 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. (7-1-19)

**31. Mobile Home.** A structure similar to a manufactured home, but built to a state mobile home code that existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code) dated June 15, 1975. (7-1-19)

**32. Modular Buildings.** A facility designed as a building or building section that is constructed to

standards contained in the Uniform Building Code (UBC), adopted by Section 39-4109, Idaho Code. (7-1-19)

**33. Non-Reducible.** Any load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would: (7-1-19)

**a.** Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended; (7-1-19)

**b.** Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or (7-1-19)

**c.** Require more than eight (8) work hours to dismantle using appropriate equipment. The applicant for a nondivisible load permit has the burden of proof of establishing the number of work hours required to dismantle the load. (7-1-19)

**34. 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. (7-1-19)

**35. Office Trailer.** See definition of Manufactured Homes. (7-1-19)

**36. 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). (7-1-19)

**37. 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. (7-1-19)

**38. Overdimensional.** Any vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)

**39. Overheight.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)

**40. 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. (7-1-19)

**41. Oversize.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)

**42. Overweight.** A single vehicle or a vehicle combination hauling or towing a non-reducible load whose weight is in excess of eighty thousand (80,000) pounds and/or legal axle weights. (7-1-19)

**43. Overwidth.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)

**44. Pilot Vehicle.** Passenger cars or trucks equipped as specified in IDAPA 39.03.05, "Rules Governing Special Permits – Oversize Non-Reducible." (7-1-19)

**45. Reducible Load.** A single item or multiple items for transport that could reasonably be repositioned so that the load conforms to legal size and weight dimensions. The determination of ability to reduce 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). (7-1-19)

**46. 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. (7-1-19)



**47. Special Permit.** A permit issued by the Idaho Transportation Department that 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. (7-1-19)

**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. (7-1-19)

**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). (7-1-19)

**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 and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (7-1-19)

**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 and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (7-1-19)

**52. Variable Load Suspension Axle.** See Section 49-123, Idaho Code. (7-1-19)

**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, and drill rigs are examples of vocational vehicles. (7-1-19)

**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 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)

**011. – 999. (RESERVED)**

## 39.03.02 – RULES GOVERNING MOVEMENT OF DISABLED VEHICLES

### 000. LEGAL AUTHORITY.

This rule, governing the movement of disabled vehicles allowed by Sections 49-1001, 49-1002 or 49-1010, Idaho Code, is adopted under the authority of Sections 40-312 and 49-1004, Idaho Code. (7-1-19)

### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.03.02, “Rules Governing Movement of Disabled Vehicles,” IDAPA 39, Title 03, Chapter 02. (7-1-19)

**02. Scope.** This rule provides the requirements for the movement of disabled vehicles. (7-1-19)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

Refer to IDAPA 39.03.01, “Rules Governing Definitions Regarding Special Permits,” for definitions of the terms used in this rule. (7-1-19)

### 011. – 099. (RESERVED)

### 100. GENERAL.

Refer to IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements,” for conditions required for the issuance of special permits. (7-1-19)

### 101. – 199. (RESERVED)

### 200. REMOVAL OF DISABLED VEHICLES.

Annual Disabled Vehicle permits will be issued to heavy duty wrecker trucks or other vehicles used for the removal and secondary movement of disabled trucks and/or trailers or combinations and their unladen return, subject to the following rules: (7-1-19)

**01. Permitted Vehicle.** The permitted vehicle involved in the removal of disabled vehicles shall be the proper class of vehicle and shall have adequate gross vehicle weight and traction to control the combination of wrecker and attached vehicles, and shall provide brakes to the trailer axles and stop signal and clearance lights to such towed disabled vehicle or vehicle combinations. (7-1-19)

**02. Loaded Weight.** Loaded weight of the permitted vehicle’s drive axle(s) will be permitted up to the basic allowable unit weight as shown on the current Idaho Transportation Department Route Capacity Map for the corresponding colored route, unless the highway route is posted with a weight restriction. The current Route Capacity Map is maintained by the Special Permit Office and is available to the public from the Special Permit Office at the address listed in rule 39.03.03, and Idaho Ports of Entry or on line at [itd.idaho.gov](http://itd.idaho.gov). Length of the combination will be limited to the legal or permitted length of the disabled combination plus forty-five (45’) feet. Width will be limited to ten (10’) feet or to the permitted width of the permitted disabled over-width vehicle/load. All VLS axles must be fully deployed when exceeding legal axle weights. (7-1-19)

**a.** Disabled Vehicle and Snowplow permits involving overweight loadings will be available at the following levels: (7-1-19)

**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 Disabled Vehicle and Snowplow 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. (7-1-19)

**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  $W = 560 ((LN/N-1) + 12N + 36)$ . (7-1-19)

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  $W = 600 ((LN/N-1) + 12N + 36)$ . (7-1-19)

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  $W = 640 ((LN/N-1) + 12N + 36)$ . (7-1-19)

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  $W = 675 ((LN/N-1) + 12N + 36)$ . (7-1-19)

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  $W = 755 ((LN/N-1) + 12N + 36)$ . (7-1-19)

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  $W = 825 ((LN/N-1) + 12N + 36)$ . (7-1-19)

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. (7-1-19)

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. (7-1-19)

b. The maximum overweight levels shall not exceed eight hundred (800) pounds per inch width of tire nor the maximum weights authorized by IDAPA 39.03.04, “Rules Governing Special Permits – Overweight Non-Reducible,” Subsection.08. (7-1-19)

c. Disabled Vehicle and Snowplow permits shall become invalid subject to the conditions of IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements.” (7-1-19)

**03. Time of Travel Restrictions.** Time of travel restrictions shall be waived during the first movement of the disabled vehicle or vehicle combinations when necessary to clear the travel way. Disabled vehicles that are overwidth and moving at night shall be required to operate in accordance with the lighting requirements as listed in IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements.” A front pilot vehicle will be required when disabled vehicle exceeding ten (10’) feet wide are moved at night. (7-1-19)

**04. First Movement.** First movement of disabled vehicles will be authorized from the point at which the vehicle or vehicle combination were disabled to a location (i.e. towing company, repair or company facility) where it can be safely secured. Secondary movements of disabled vehicles that have been separated shall be covered by the disabled vehicles permit as long as the weight/size limits as listed in Subsection 200.02 of this rule are not exceeded. (7-1-19)

a. First Movement of disabled vehicle or vehicle combination shall be defined as follows: point of original disablement to a location where it can safely secured (i.e. towing company, repair or company facility). (7-1-19)

**b.** Secondary Movement of disabled vehicles shall be defined as follows: a single vehicle or combination of disabled vehicles that have been separated into single vehicles and are moving from other than the original point of disablement. (7-1-19)

**05. Annual Disabled Vehicle Permit.** The permitted vehicle involved in the removal of a disabled vehicle shall be allowed (under annual disabled vehicle permit) to tow a functional replacement vehicle to the point of disablement, to replace the disabled vehicle. (7-1-19)

**06. Height Restrictions.** The disabled vehicle height shall not exceed the height of fifteen (15') feet on the first movement. (7-1-19)

**300. HAZARDOUS TRAVEL CONDITIONS RESTRICTIONS.**

Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for limitations on travel during hazardous conditions. (7-1-19)

**301.–999. (RESERVED)**

## 39.03.04 – RULES GOVERNING SPECIAL PERMITS – OVERWEIGHT NON-REDUCIBLE

### 000. LEGAL AUTHORITY.

This rule, governing the movement of vehicles or loads which are in excess of the sizes or weights allowed by Sections 49-1001, 49-1002 or 49-1010, Idaho Code, is adopted under the authority of Sections 40-312 and 49-1004, Idaho Code. (7-1-19)

### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.03.04, “Rules Governing Special Permits – Overweight Non-Reducible,” IDAPA 39, Title 03, Chapter 04. (7-1-19)

**02. Scope.** This rule states the responsibility of the permittee, the travel restrictions, and maximum weight authorized for special loads. (7-1-19)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

Refer to IDAPA 39.03.01, “Rules Governing Definitions,” for definitions of the terms used in this rule. (7-1-19)

### 011. GENERAL RULES AND CONDITIONS.

Refer to IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements” for conditions required for the issuance of special permits. (7-1-19)

### 012. – 099. (RESERVED)

### 100. RESPONSIBILITY OF PERMITTEE.

**01. General Responsibilities.** The permittee shall determine and declare the gross weight, distribution of weight, and the dimensions of the vehicle and load and shall submit all other required information before issuance of the permit. The acceptance of a special permit by the permittee is his agreement that the vehicle and load covered by the permit can and will be moved in compliance with the terms and limitations set forth in the permit. When a permit has been accepted by the permittee, such action shall be deemed an unequivocal assurance that he has complied, or will comply with all operating, licensing, and financial responsibility requirements. (7-1-19)

**02. Permit to Be Carried in Vehicle.** Refer to IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements,” for conditions required for the issuance of special permits. (7-1-19)

**03. Certification Load is Non-Reducible.** Refer to IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements,” for conditions required for the issuance of special permits. (7-1-19)

**04. Basic Limitations Shall not be Exceeded.** Refer to IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements,” for conditions required for the issuance of special permits. (7-1-19)

#### 05. Movement, Traffic Control Plans, Loading, Parking on State Highways. (7-1-19)

**a.** The movement of special loads shall be made in such a way that the traveled way will remain open as often as feasibly possible and to provide for frequent passing of vehicles traveling in the same direction. In order to achieve this, a traffic control plan is required to be submitted when operating on two (2) lane highways and exceeding the following dimensions: (7-1-19)

i. Width exceeds twenty (20) feet. (7-1-19)

ii. Length exceeds one hundred fifty (150) feet. (7-1-19)

**b.** The traffic control plan shall be prepared by a licensed engineer or an American Traffic Safety Services Association (ATSSA) certified traffic control supervisor and include the following information: (7-1-19)

i. Locations and mileposts of where the vehicle/load can pull over to allow for traffic relief; (7-1-19)

- ii. How pilot cars and traffic control personnel will be utilized; (7-1-19)
- iii. Identification of any railroad tracks being crossed and the emergency contact number for the governing entity; and (7-1-19)
- iv. Procedure for allowing emergency vehicles to navigate around the vehicle/load when necessary. (7-1-19)
- c. The permitted vehicle shall not be loaded, unloaded, or parked upon any State highway, except for emergencies, without the specific permission or by direction of the Department or policing agency having jurisdiction over such highway. (7-1-19)
- d. Overwidth Hauling Vehicles, Restrictions. Refer to IDAPA 09.03.05 “Rules for Governing Special Permits – Oversize Non-Reducible.” (7-1-19)

**06. Application for Special Permits. (7-1-19)**

a. How To Apply. The Special Permit Form ITD-217 becomes a valid application when signed by the Permittee. A separate application Form ITD-217C may be completed by the applicant from which the necessary information may be transferred to the permit by the permit writer. Such applications on Form ITD-217C will usually be received through Ports of Entry and applications may also be accepted by letter or by telephone provided all pertinent and necessary information is submitted. (7-1-19)

b. Information To Be Furnished By Applicant. Any application for a special permit shall provide for the submittal of all pertinent information required to establish the necessity of the proposed movement and the requisite to an engineering determination of the feasibility of the proposed movement. The following information shall be furnished: (7-1-19)

- i. Name. Name of owner, operator, or lessee of vehicle or vehicles concerned. (7-1-19)
- ii. Description of Load. Manufacturer, model number, etc. (7-1-19)
- iii. Identification of Vehicles. License number, if registered, otherwise serial number, unit number. (7-1-19)
- iv. Weight. Licensed capacity of vehicles subject to registration, if overweight is involved. (7-1-19)
- v. Axles. Number of axles, spacing between axles, number and size of tires. (7-1-19)
- vi. Gross Weight. Gross weight, distribution of weight, overall dimensions. (7-1-19)
- vii. Route. Point of origin and destination, preferred route by road number. (7-1-19)
- viii. Start Date. Date of movement and days required. (7-1-19)
- ix. If House Trailer. License number if privately owned, serial number if caravan permit. (7-1-19)
- x. Insurance. Evidence of insurance, if required. (7-1-19)
- xi. Necessity. Necessity for movement. (7-1-19)
- xii. Special Instructions. Special instructions regarding address to which permit is to be sent and any other pertinent information. (7-1-19)
- xiii. Signature. Signature of applicant. (7-1-19)
- xiv. 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, off road equipment, etc., are exempt from registration but are not exempt from weight limitations. (7-1-19)

xv. **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. (7-1-19)

xvi. **Variable Load Suspension Axle Requirements.** Any vehicle which is equipped with variable load suspension axles (lift axles) transporting overweight loads shall have lift axles fully deployed when adjacent axles exceed legal axle weights. (7-1-19)

xvii. **Maximum Tire Weights.** The maximum overweight levels shall not exceed eight hundred (800) pounds per inch width of tire. (7-1-19)

xviii. **Single Axle Weight Restriction.** When a single axle or steer axle is over thirty five thousand (35,000) pounds, bridge approval shall be required. (7-1-19)

xix. **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. (7-1-19)

**101. – 199. (RESERVED)**

**200. TIME OF TRAVEL RESTRICTIONS FOR SPECIAL LOADS.**

Oversize loads may be transported on Idaho Highways subject to the following conditions: (7-1-19)

**01. Red-Coded Routes.** Daylight travel until 2 p.m. on Friday or the day before a holiday, no Saturday, no Sunday. Due to low traffic volumes on these routes early in the mornings of Saturday and Sunday, single trip permits may be issued for dawn to 8 a.m. If the movement is not completed by 8 a.m. the permittee will be required to safely park and not proceed until the next day. (7-1-19)

**02. Black-Coded Routes.** Loads not in excess of ten (10) feet wide, one hundred (100) feet long or fifteen (15) feet high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred (100) feet long, or fifteen (15) feet high may travel daylight hours seven (7) days per week. (7-1-19)

**03. Interstate.** Loads not in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fifteen (15) feet high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred and twenty (120) feet long, or fifteen (15) feet high may travel daylight hours, seven (7) days per week. (7-1-19)

**04. Nez Perce – Clearwater Forest Safety and Travel Requirements.** As per a Federal Court decision, the United States Forest Service has the duty to regulate oversize loads traveling through the Nez Perce – Clearwater Forest (US 12 from milepost 74 to 174). (7-1-19)

**a.** The Forest Service has issued the following written criteria to determine which “oversize” loads will be subject to Forest Service review: (7-1-19)

**i.** Load exceeds sixteen (16) feet wide, one hundred and fifty thousand pounds (150,000 lbs.), and/or one hundred and fifty (150) feet in length. (7-1-19)

**ii.** Load movement requires longer than twelve (12) hours to travel through the designated mileposts. (7-1-19)

**iii.** Load movement requires physical modification of the roadway or adjacent vegetation to facilitate

passage beyond normal highway maintenance. (7-1-19)

**b.** For those loads meeting any of the criteria in Paragraph 200.04.a.i. through 200.04.a.iii. of this rule, there will be additional safety requirements for the movement of such loads on US 12 from milepost 74 to 174. These additional safety requirements include, at a minimum, the following: (7-1-19)

i. Ambulances and possible law enforcement escorts to ensure public safety. (7-1-19)

ii. Safety lighting will be addressed so as to not create a safety hazard to the traveling public. (7-1-19)

iii. Loads cannot utilize turnouts, which are designated for recreational vehicles for non-emergency parking. (7-1-19)

iv. Time of travel will be determined based on traffic volume and best interest of the public. Night time movement may be required and/or movement may be restricted during holidays or weekends. (7-1-19)

v. Loads require a vehicle safety inspection by the Idaho State Police or equivalent agency of another jurisdiction prior to issuance of a permit. (7-1-19)

vi. ITD shall monitor the loads as they travel the highway and ensure only one (1) load shall operate on this section of highway at any one time. (7-1-19)

**05. Additional Restrictions.** (7-1-19)

**a.** Red-Coded Routes – No travel for any load after 2 p.m. on the day preceding a holiday or holiday weekend. A holiday weekend occurs as three (3) consecutive days, when a designated holiday occurs on a Friday or Monday, or when the designated holiday occurs on a Saturday or Sunday, in which case the preceding Friday or the following Monday shall be included in such three (3) day holiday weekend. Travel may be resumed at dawn on the day following the holiday or holiday weekend. (7-1-19)

**b.** Black-Coded Routes and Interstate Routes – Loads in excess of ten (10) feet wide, one hundred (100) feet long, or fifteen (15) feet high may not travel after 4:00 p.m. on the day preceding a holiday. Travel may be resumed at dawn on the day following the holiday. (7-1-19)

**c.** The following days are designated as holidays: (7-1-19)

i. New Year’s Day; (7-1-19)

ii. Memorial Day; (7-1-19)

iii. Independence Day; (7-1-19)

iv. Labor Day; (7-1-19)

v. Thanksgiving; and (7-1-19)

vi. Christmas. (7-1-19)

**d.** Additional restrictions relating to movement of buildings and houses are: (7-1-19)

i. Excessively Oversize Loads. Excessively oversized loads shall be restricted to the time of day, or day of the week, when traffic interference will be at a minimum. (7-1-19)

ii. Buildings. Time of travel of loads in the building size category shall be restricted to the time of day and/or day of the week, when traffic interference will be at a minimum. (7-1-19)

iii. Early Morning Moves. In metropolitan areas and in certain other cases where a serious disruption



of traffic would otherwise be unavoidable, the movement of excessively oversized buildings may be permitted, at the discretion of the District Engineer, between 2 a.m. and daybreak to avoid traffic congestion. (7-1-19)

e. Other time of travel restrictions may be noted on the permit due to special circumstances. (7-1-19)

f. Overlength restrictions. Oversize vehicles operating under authority of a special permit which exceed seven (7) feet of front overhang, on any vehicle in the combination, are restricted to daylight travel only on two (2) lane, two (2) way highways. (7-1-19)

**06. Hours of Darkness.** Hours are defined as extending from sunset to sunrise or at any other time when visibility is restricted to less than five hundred (500) feet. (7-1-19)

**07. Heavy Commuter Traffic Restrictions.** (7-1-19)

a. The movement of oversized permitted vehicles or loads which are in excess of thirteen (13) feet in width may be prohibited from movement on highways on all state and interstate routes at times of heavy commuter traffic within one (1) mile of the city limits of the following cities: (7-1-19)

i. Boise; (7-1-19)

ii. Caldwell; (7-1-19)

iii. Coeur d'Alene; (7-1-19)

iv. Eagle; (7-1-19)

v. Emmett; (7-1-19)

vi. Idaho Falls; (7-1-19)

vii. Meridian; (7-1-19)

viii. Middleton; (7-1-19)

ix. Nampa; (7-1-19)

x. Pocatello; (7-1-19)

xi. Star; (7-1-19)

xii. Twin Falls; (7-1-19)

xiii. Garden City; and (7-1-19)

xiv. Chubbuck. (7-1-19)

b. Authorized oversized permitted vehicles operating during hours of heavy commuter traffic shall be restricted to the furthest right hand lane. Emergency movement of vehicles/loads responding to imminent hazards to persons or property shall be exempt from the provisions of Section 200. Unless otherwise defined on the permit, the times of heavy commuter traffic shall be considered to be 6:30 a.m. to 8:30 a.m., and 4 p.m. to 6 p.m. Monday through Friday except as noted under Holiday restrictions. Restrictions to the operation of oversized permitted vehicles and/or loads during times of heavy commuter traffic shall appear either on the face of the permit or in the attachments for annual permits. (7-1-19)

**08. Hazardous Travel Conditions Restrictions.** Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for limitations on travel during hazardous conditions. (7-1-19)

**09. Delaying Movement.** Enforcement personnel responsible for any section of highway shall carry out enforcement action for violations involving special permit operations and may delay movements. (7-1-19)

**10. Map Resources.** The Pilot/Escort Vehicle and Travel Time Requirement Map available at the Idaho Transportation Department Special Permit Office, and Ports of Entry. (7-1-19)

**11. Additional District Approval and Allowance for Approval Time.** District approval will be obtained by the Special Permit office and may require up to twenty-four (24) working hours. District approval is required when vehicles or loads exceed: (7-1-19)

- a. Sixteen (16) feet wide on red coded routes; (7-1-19)
- b. Eighteen (18) feet wide on black coded routes and interstate highways; (7-1-19)
- c. Sixteen (16) feet high on any route; or (7-1-19)
- d. One hundred twenty (120) feet long on any route. (7-1-19)

**300. 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 special 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. (7-1-19)

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. (7-1-19)

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  $W = 560 ((LN/N-1) + 12N + 36)$ . (7-1-19)

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  $W = 600 ((LN/N-1) + 12N + 36)$ . (7-1-19)

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  $W = 640 ((LN/N-1) + 12N + 36)$ . (7-1-19)

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  $W = 675 ((LN/N-1) + 12N + 36)$ . (7-1-19)

**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  $W = 755 ((LN/N-1) + 12N + 36)$ . (7-1-19)

**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  $W = 825 ((LN/N-1) + 12N + 36)$ . (7-1-19)

**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 300.01 of this rule must operate by single trip permits only if approved. (7-1-19)

**301. – 399. (RESERVED)**

**400. OVERWEIGHT PERMITS REQUIRING BRIDGE ANALYSIS.**

Requests to transport vehicles and/or loads at weights in excess of the weights allowed on a routine basis will require, at a minimum, an additional review and approval from the special 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 following information may be requested, to be provided to the special permit office when an engineering analysis is required: (7-1-19)

**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. (7-1-19)

**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. (7-1-19)

**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. (7-1-19)

**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. (7-1-19)

**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. (7-1-19)

**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. (7-1-19)

**05. Extenuating Circumstances.** The Department may under extenuating circumstances require that a bridge analysis be completed by a third party. (7-1-19)

**501. – 599. (RESERVED)**

**600. SPECIAL PERMITS FOR SELF PROPELLED VEHICLES.**

Permitted overweight/oversize self-propelled vocational vehicles (such as cranes, loaders, motor graders, drills) may haul or tow a motorized vehicle provided that the motorized vehicle or combination of vehicles being towed (trailer and motorized vehicle) does not exceed eight thousand (8,000) pounds and the motorized vehicle is used solely for return trip after delivery of the permitted vehicle. (7-1-19)

**601. – 999. (RESERVED)**

**39.03.05 – RULES GOVERNING SPECIAL PERMITS – OVERSIZE NON-REDUCIBLE**

**000. LEGAL AUTHORITY.**

This rule, governing the movement of vehicles or loads that are in excess of the sizes allowed by Sections 49-940, 49-1001, 49-1002, 49-1004, or 49-1010, Idaho Code, is adopted under the authority of Section 49-201 and 49-312, Idaho Code. (7-1-19)

**001. TITLE AND SCOPE.**

**01. Title.** This rule is titled IDAPA 39.03.05, “Rules Governing Special Permits – Oversize Non-Reducible,” IDAPA 39, Title 03, Chapter 05. (7-1-19)

**02. Scope.** This rule states the requirements for the movement of oversize loads. (7-1-19)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

Refer to IDAPA 39.03.01, “Rules Governing Definitions Regarding Special Permits,” for definitions of the terms used in this rule. (7-1-19)

**011. – 049. (RESERVED)**

**050. SAFETY INSPECTION REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS.**

Refer to IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements,” for conditions required in this rule. (7-1-19)

**051. – 059. (RESERVED)**

**060. BRAKES.**

Refer to IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements,” for conditions required in this rule. (7-1-19)

**061. – 069. (RESERVED)**

**070. 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. (7-1-19)

**02. Practical Minimum Dimension of Load.** Oversize loads shall be reduced to a practical minimum dimension. Except where noted below, permits will not be issued to exceed legal size if the load is more than one (1) unit in width, height, or length that results in them exceeding legal overhang. Additionally, permits shall not be utilized for multiple unit loads that may be re-positioned to meet legal dimensions established in Section 49-1010, Idaho Code. (7-1-19)

**03. Overwidth Loads on Single or Double Trailers.** 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. (7-1-19)

**04. Overwidth Overhang.** Overwidth loads shall distribute overhang to the sides of the trailer as evenly as possible. (7-1-19)

**05. Oversize.** Special permits may be issued for continuous operation to haul or transport nonreducible loads having specified maximum oversize dimensions 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. (7-1-19)

**a.** Permits for continuous operation, oversize only. (7-1-19)

**i.** 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. 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. (7-1-19)

ii. Maximum size of loads or vehicles transported under authority of an annual oversize for black and interstate routes shall be limited to a width of sixteen (16') feet, a height of fifteen feet six inches (15'6"), 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 feet six inches (12'6"). 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. (7-1-19)

**06. Passing Lane Must Be Provided.** Except for short movements in urban areas, and on routes having very low Average Daily Traffic (ADT), permits will not be issued for a load of such dimension that continuous passage of opposing traffic and frequent passing of following traffic cannot be maintained. Ten (10') feet or more of travelway should be provided for passage of traffic unless there are frequent turnouts, intersections, etc., to provide relief of accumulated traffic to the rear. (7-1-19)

**07. Hazardous Travel Conditions Restrictions.** Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for limitations on travel during hazardous conditions. (7-1-19)

**071. – 079. (RESERVED)**

**080. OVERWIDTH HAULING VEHICLES, RESTRICTIONS.**

**01. Width of Hauling Equipment.** Special permits may be issued for up to ten (10') foot wide trailers hauling non-reducible loads smaller than ten (10') feet wide. 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. (7-1-19)

**02. Load Dimensions.** Any load exceeding the dimensions of the trailer shall be non-reducible in size. (7-1-19)

**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. (7-1-19)

**04. Buildings.** Buildings that are too wide to be safely transported on legal-width hauling vehicles shall be moved either on house moving dollies or on trailers that can be reduced to legal width for unladen travel. (7-1-19)

**081. – 089. (RESERVED)**

**090. GENERAL CONDITIONS AND REQUIREMENTS.** Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions required for the issuance of special permits. (7-1-19)

**091. – 099. (RESERVED)**

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

Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions in this rule. (7-1-19)

**101. – 199. (RESERVED)**

**200. FLAGGING REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS.** Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for

conditions in this rule. (7-1-19)

**201. – 299. (RESERVED)**

**300. SIGNING REQUIREMENTS OF TOWING VEHICLES, OVERSIZE VEHICLES AND/OR LOADS.**  
Oversize load signs shall meet the following specifications: (7-1-19)

**01. Dimensions.** A minimum of twelve (12”) inches high by five (5’) feet wide and eight (8”) inch high letters, one (1”) inch stroke width and black letters on yellow background. (7-1-19)

**02. Displaying Signs.** Signs shall be displayed on: (7-1-19)

**a.** The front or the roof top of the towing vehicle and the rear of the oversize load; or (7-1-19)

**b.** The front and back or the roof top of self-propelled oversize vehicles. (7-1-19)

**03. When Signs Are Required.** Oversize load signs shall be required on all vehicles and/or loads exceeding legal width or vehicle combinations inclusive of loads that exceed seventy five (75’) feet. Signs shall not be displayed when the vehicle is empty and of legal dimensions. (7-1-19)

**301. – 399. (RESERVED)**

**400. PILOT/ESCORT VEHICLES.**

Pilot/escort vehicle(s) shall be furnished by the permittee and shall be either passenger car(s), truck(s), or vehicles authorized by the Special Permit Office, however shall not exceed sixteen (16,000) pounds. The truck(s) used as pilot/escort vehicle(s) shall not be loaded in such a manner as to cause confusion to the public as to which vehicle is the one under escort. Vehicles towing trailers shall not qualify as pilot/escort vehicles. (7-1-19)

**01. Loads Over Sixteen Feet High.** Height poles are required in the front of the pilot/escort vehicles leading all loads over sixteen (16’) feet high with a non-metallic height pole deployed. (7-1-19)

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

**01. Oversize Load Signs.** All pilot/escort vehicles while escorting an oversize load shall display a sign on the roof top of the vehicle having the words OVERSIZE LOAD. Such signs shall not be displayed and shall be considered illegal except when the pilot/escort vehicle is actually piloting/escorting an oversize load. (7-1-19)

**02. Dimensions.** Twelve (12”) inches high by five (5’) feet wide and eight (8”) inch high letters, one (1”) inch stroke width, and black letters on yellow background. (7-1-19)

**402. PILOT/ESCORT VEHICLE LIGHTING REQUIREMENTS.**

**01. Multiple Lights.** Flashing or rotating amber lights displayed on the pilot/escort vehicle shall be mounted at each end of the required OVERSIZE LOAD sign above the roofline of the vehicle and be visible from the front, rear, and sides of the pilot/escort vehicle. These lights shall meet the minimum standards outlined under oversize vehicle and/or load lighting requirements and shall be on at all times during escorting movements. (7-1-19)

**02. Single Light.** As an alternate, a pilot/escort vehicle may display one (1) rotating or flashing amber beacon visible from a minimum of five hundred (500’) feet, mounted above the roofline and visible from the front, and rear, and sides of the pilot/escort vehicle. The light shall be on at all times during escorting movements. (7-1-19)

**03. Light Bars.** Light bars, when in use shall display amber colored lights meeting the minimum visibility requirements, found in IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements,” Section 070. (7-1-19)

**04. Pilot/Escort Lights On During Movement of Escorted Load.** The pilot/escort vehicle’s headlights and taillights shall be on while escorting the permitted load. (7-1-19)

**403. PILOT/ESCORT VEHICLE EQUIPMENT.**

**01. Required Equipment to be Carried in a Pilot/Escort Vehicle.** A pilot/escort vehicle shall carry the following items of equipment when piloting/escorting an over dimensional vehicle and/or load. (7-1-19)

- a. Standard eighteen (18") inch STOP and SLOW paddle sign. (7-1-19)
- b. Three (3) bi-directional emergency reflective triangles. (7-1-19)
- c. A minimum of one (1) five (5) pound B, C, fire extinguisher. (7-1-19)
- d. An ANSI Class 2 or 3 safety vest, shirt, or jacket either orange or yellow, which must be worn by the operator when working out of the vehicle during daylight hours. An ANSI Class3 safety vest, shirt or jacket either orange or yellow, which must be worn by the operator when working out of the vehicle during nighttime hours. (7-1-19)
- e. Two (2) spare oversize load signs for escorted loads meeting the size requirements of Section 300 of these rules. (7-1-19)
- f. Non-conductive non-destructive height pole with a flexible tip on the front of the pilot/escort vehicle for determining vertical clearances (when required). (7-1-19)
- g. Valid drivers license. (7-1-19)
- h. Two-Way Radio. (7-1-19)
- i. Hardhat. (7-1-19)
- j. Flashlight (operable). (7-1-19)
- k. First Aid Kit. (7-1-19)

**02. Two-Way Radio.** 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 piloted/escorted vehicle and/or 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. (7-1-19)

**404. PILOT/ESCORT VEHICLE PLACEMENT.**

**01. Front Pilot/Escort Vehicle.** The movement of an oversize vehicle and/or load may be preceded by a pilot/escort vehicle on those sections of highway where the vehicle and/or load cannot travel within its proper travelway lane. (7-1-19)

**02. Rear Pilot/Escort Vehicle.** As authorized by Section 49-940, Idaho Code, when the width of a load obstructs the driver's view to the rear so they cannot see two hundred (200') feet behind them, a rear escort shall be required to accompany the oversize load and to communicate with the driver of the permitted load concerning impeded overtaking traffic for the purpose of providing passing opportunity. (7-1-19)

**03. Advance Pilot/Escort Vehicle.** A third pilot/escort vehicle may be required when the load is of such extreme dimensions for the route of travel as to require holding opposing traffic at turnouts and intersections to provide for passage of the load. (7-1-19)

**04. First Movement from the Forest.** A pilot/escort vehicle is not required on the first movement from the forest of tree-length logs or poles if the overall length does not exceed one hundred ten (110') feet.



Secondary movements must comply with the requirements stated on the Pilot/Escort Vehicle and Travel Time Requirements map. (7-1-19)

**05. Spacing.** Approximately one thousand (1,000') feet shall be maintained in rural areas between the piloting/escorting vehicle and any oversize load. This spacing may be reduced in urban areas when necessary to provide traffic control for turning movements. (7-1-19)

**405. – 499. (RESERVED)**

**500. TIME OF TRAVEL RESTRICTIONS FOR SPECIAL LOADS.**

Refer to IDAPA 39.03.04, "Rules Governing Special Permits – Overweight Non-Reducible," for conditions required in this rule. (7-1-19)

**501. – 549. (RESERVED)**

**550. MOVEMENT, TRAFFIC CONTROL PLANS, LOADING, PARKING ON STATE HIGHWAYS.**

Refer to IDAPA 39.03.04, "Rules Governing Special Permits – Overweight Non-Reducible," for conditions required in this rule. (7-1-19)

**01. Additional District Approval and Allowance for Approval Time.** District approval will be obtained by the Special Permit office and may require up to twenty-four (24) working hours. District approval is required when vehicles or loads exceed: (7-1-19)

- a. Sixteen (16') feet wide on red coded routes; (7-1-19)
- b. Eighteen (18') feet wide on black coded routes and interstate highways; (7-1-19)
- c. Sixteen (16') feet high on any route; or (7-1-19)
- d. One hundred twenty (120') feet long on any route. (7-1-19)

**551. – 599. (RESERVED)**

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

**01. Farm Tractors on Interstate Highways.** Farm tractors transported on Interstate Highways are required to have special 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 special permit regulations as other oversize loads when the width of the load exceeds legal-width limitations, and must operate under oversize permits. (7-1-19)

**02. Other Than Farm to Farm.** Implements of husbandry exceeding eight feet six inches (8'6") in width being transported other than from one (1) farm operation to another farm operation shall require special permits except when the farmer or their designated agents, including without limitation, equipment dealers transporting implements of husbandry and equipment for the purpose of: (7-1-19)

- a. The repair or maintenance of such implements of husbandry and equipment when traveling to or from a farm to a repair or maintenance facility during daylight hours; or (7-1-19)
- b. The purchase, sale, lease or rental of such implements of husbandry or equipment when traveling between a farm and a dealership, auction house, or other facility during daylight hours. (7-1-19)

**03. Farm Permits.** Single trip permits must be ordered at the permit office. 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 (1) 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. (7-1-19)

**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 to or from a farm for agricultural operations, shall be exempt from special 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). (7-1-19)

**a.** Exempt trailers, as listed above, may not be used to haul implements of husbandry that are narrower than the overwidth trailer. (7-1-19)

**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). (7-1-19)

**601. – 699. (RESERVED)**

**700. MANUFACTURED HOMES, MODULAR BUILDINGS, AND OFFICE TRAILERS.**

**01. Registration and Licensing Requirements.** All manufactured homes 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 registration (if required) and general property tax receipt shall be made available for inspection upon demand of any enforcement officer. (7-1-19)

**02. 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. (7-1-19)

**03. Manufactured Homes, Modular Buildings, and Office Trailers Being Towed on Their Own Axles.** (7-1-19)

**a.** Connection Device. Shall meet the requirements of Federal Motor Carrier Safety Regulations, 49 CFR part 393. (7-1-19)

**b.** Length. Not in excess of eighty (80') feet including tongue. (7-1-19)

**c.** 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 a special 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. (7-1-19)

**d.** 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. (7-1-19)

**e.** 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). (7-1-19)

**f.** 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. (7-1-19)

**g.** Construction. Construction shall be in accordance with CFR Title 24, for the year the manufactured home was built. (7-1-19)

**h.** 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. (7-1-19)

**i.** 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. (7-1-19)

**j.** Lights. The unit shall have stop lights, turn signals, and tail lights that meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (7-1-19)

**k.** 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. (7-1-19)

**04. Vehicles for Towing/Hauling Manufactured Homes, Modular Buildings, and Office Trailers.** (7-1-19)

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

<b>Manufactured Homes and Office Trailers Width</b>	<b>Tire Width</b>	<b>Drive Axle Tire Rating</b>	<b>Min. Unladen Weight</b>	<b>Rear Axle Rating</b>
Over 8 feet to 10 feet	7.00 inches	6 Ply	6,000#	None
Over 10 feet to 12 feet	8.00 inches	8 Ply	8,000#	15,000#
Over 12 feet	8.25 inches	10 Ply	12,000#	15,000#

(7-1-19)

**b.** Brakes. Shall be in accordance with Federal Motor Carrier Safety Regulations part 393. (7-1-19)

**c.** Rear Axle. Towing vehicle shall have a minimum of a single axle with dual mounted tires. (7-1-19)

**d.** Connection Device. Shall meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (7-1-19)

**e.** Horsepower Requirement. When towing/hauling a manufactured home, modular building, or office trailer a minimum speed of twenty-five (25) mph must be maintained. (7-1-19)

**f.** 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. (7-1-19)

**g.** Speed Limit Requirements. Vehicles towing manufactured homes or office trailers on their own axles shall be limited to a maximum of sixty (60) miles per hour. (7-1-19)

**05. Manufactured Home, Modular Building, Or Office Trailer Being Hauled. (7-1-19)**

**a.** Length. Not in excess of eighty (80') feet. (7-1-19)

**b.** 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 a special permit is issued. (7-1-19)

**c.** 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. (7-1-19)

**701. – 729. (RESERVED)**

**730. 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. (7-1-19)

**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. (7-1-19)

**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. (7-1-19)

**731. – 749. (RESERVED)**

**750. GENERAL PROVISIONS – MANUFACTURED HOMES, MODULAR BUILDINGS, AND OFFICE TRAILER.**

**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. (7-1-19)

**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. (7-1-19)

**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 office trailers shall be constructed in accordance with Federal HUD Manufactured Home Construction and Safety Standards. (7-1-19)

**751. – 799. (RESERVED)**

**800. RELOCATION OF BUILDING OR HOUSES – GENERAL REQUIREMENTS.**

**01. Buildings Exceeding Sixteen Feet Wide.** Special permits for the transportation of buildings or houses having a basic width in excess of sixteen (16') feet shall be limited to the relocation of previously used buildings. The transportation of new, centrally manufactured houses, buildings, building sections, mobile or modular homes, etc., may be denied special permits if the width at the base is in excess of sixteen (16') feet. (7-1-19)

**02. Requirements for Permit.** The requirements of each permit for relocation of a used building or house shall depend on the dimensions of the load as well as a consideration of the width and alignment of the roadway, passing opportunity for the traveling public, vertical or horizontal clearance of bridges or other structures along the route of travel, and traffic volumes. (7-1-19)

**03. Additional Restrictions Relating to Movement of Buildings and Houses:** (7-1-19)

**a. Excessively Oversize Loads.** Excessively oversize loads shall be restricted to the time of day, or day of the week, when traffic interference will be at a minimum. (7-1-19)

**b. Buildings.** Time of travel of loads in the building size category shall be restricted to the time of day and/or day of the week when traffic interference will be at a minimum. (7-1-19)

**c. Early Morning Moves.** In metropolitan areas and in certain other cases where a serious disruption of traffic would otherwise be unavoidable, the movement of excessively oversize buildings may be permitted, at the discretion of the District Engineer, between 2 a.m. and daybreak to avoid traffic congestion. (7-1-19)

**d. Overlength restrictions.** Oversize vehicles operating under authority of a special permit that exceed seven (7') feet of front overhang, on any vehicle in the combination, are restricted to daylight travel only on two-lane, two-way highways. (7-1-19)

**e. Other time of travel restrictions may be noted on the permit due to special circumstances.** (7-1-19)

**801. – 849. (RESERVED)**

**850. VERTICAL CLEARANCE REQUIREMENTS.**

**01. Permit for Over height.** The issuance of any permit for movement of over height loads will be subject to the vertical clearance of any structure involved along the route of travel. The Department may require a minimum of twenty-four (24) working hours to allow for the proposed route to be evaluated and approved or denied. (7-1-19)

**02. Overhead Traffic Signals.** Any movement of a building, or other over height load, having a loaded height of sixteen feet six inches (16'6") or more may require advance notice if overhead traffic signals are involved in the route. (7-1-19)

**03. Overhead Power Lines.** Carriers whose load/vehicle combinations exceed seventeen (17') feet high must contact local utility company(s) for approval and assistance with power lines. (7-1-19)

**851. – 869. (RESERVED)**

**870. INSURANCE AND BONDING REQUIREMENTS.**

**01. Insurance.** The permittee when hauling buildings fourteen (14') feet or more in width shall be required to carry evidence of insurance in the permitted vehicle in the same minimum amounts as is required for those

permits issued for the movement of overwidth manufactured homes. Minimum requirements are three hundred thousand dollars (\$300,000) combined single limit, (when hauling permittee's own building) and seven hundred fifty thousand dollars (\$750,000) when hauling for hire. (7-1-19)

**02. Permittee Responsibility.** The permittee shall be responsible for the protection of sign-posts, guideposts, delineators, and may be required to post bond to cover the costs of repairs or replacements of such facilities. (7-1-19)

**03. Bond Requirements.** When an expense to the state can be presumed in providing clearance for an over height load, or for repair of signposts or other such facilities, a cash bond based on estimated costs to the State may be required before issuance of such permit. Any part of the cash bond in excess of material costs, labor, and equipment rental will be returned to the permittee after the actual costs to the State have been determined and deducted. (7-1-19)

**871. – 879. (RESERVED)**

**880. FEES.**

Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions required for the issuance of special permits. (7-1-19)

**881. – 889. (RESERVED)**

**890. APPLICATION FOR PERMIT.**

Refer to IDAPA 39.03.04, "Rules Governing Special Permits – Overweight Non-Reducible," for conditions required for the issuance of special permits. (7-1-19)

**891. – 899. (RESERVED)**

**900. CONVOY OF OVERSIZE LOADS.**

**01. Convoying Oversize Loads.** Oversize loads that individually would require a pilot/escort vehicle, except overwidth manufactured homes, office trailers, and modular buildings, may be permitted to travel in convoy with pilot/escort vehicles in front of and behind the convoy, but such convoys shall not exceed four (4) oversize loads or vehicles between pilot/escort vehicles. Maximum width of units in a convoy shall be limited to fourteen (14') feet wide on black-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map and to twelve feet six inches (12'6") on red-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map. Oversize loads that do not individually require a pilot/escort vehicle may travel in convoy without pilot/escort vehicles. Maximum length of units in a convoy shall be limited to one hundred (100') feet on black-coded routes and seventy five (75') feet on red-coded routes of the pilot/escort vehicle and travel time requirements map and one hundred twenty (120') feet on the interstate system. (7-1-19)

**02. Convoying Manufactured Homes, Office Trailers, and Modular Buildings.** No convoy of overwidth manufactured homes, modular buildings, or office trailers shall include more than two (2) units between two (2) piloting/escorting vehicles. On those routes where pilot/escort vehicles are required in front and to the rear of an overwidth manufactured home or office trailer, two (2) units may travel in convoy between such piloting/escorting vehicles. On routes requiring only a front pilot/escort vehicle, the manufactured home or office trailer mover may have the option of convoying two (2) units between front and rear pilots/escorts. At no time shall more than one (1) manufactured home or office trailer be piloted/escorted by one (1) pilot/escort vehicle. Maximum width of units in a convoy shall be limited to fourteen (14') feet wide on black-coded routes and to ten (10') feet wide on red-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map. Minimum spacing of approximately one thousand (1,000') feet shall be maintained between all units in a convoy except when a pilot/escort is required to control traffic in turning movements. Maximum length of units in a convoy shall be limited to one hundred (100') feet on black-coded routes and seventy five (75') feet on red-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map and one hundred twenty (120') feet on the interstate system. (7-1-19)

**901. – 999. (RESERVED)**

**39.03.06 – RULES GOVERNING SPECIAL PERMITS FOR EXTRA-LENGTH/EXCESS WEIGHT,  
UP TO 129,000 POUND VEHICLE COMBINATIONS**

**000. LEGAL AUTHORITY.**

This rule, governing the movement of vehicles which are in excess of eighty thousand (80,000) pounds, and the sizes allowed by 49-1004, 49-1004A, and 49-1010, is adopted under the authority of Section 40-312, Idaho Code. (7-1-19)

**001. TITLE AND SCOPE.**

**01. Title.** This rule is titled IDAPA 39.03.06, “Rules Governing Special Permits for Extra-Length/Excess Weight, Up to 129,000 Pound Vehicle Combinations” IDAPA 39, Title 03, Chapter 06. (7-1-19)

**02. Scope.** This rule states the requirements and routes for extra-length/excess weight over eighty thousand (80,000) pounds and up to one hundred twenty-nine thousand (129,000) pound vehicle combinations. (7-1-19)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

Refer to IDAPA 39.03.01, “Rules Governing Definitions Regarding Special Permits,” for definitions of the terms used in this rule. (7-1-19)

**011. – 049. (RESERVED)**

**050. GENERAL RULES AND CONDITIONS.**

Refer to IDAPA 39.03.03, “Rule Governing Special Permits – General Conditions and Requirements,” for conditions required for the issuance of special permits. (7-1-19)

**051. – 099. (RESERVED)**

**100. DESIGNATED ROUTES FOR EXTRA LENGTH VEHICLE COMBINATIONS CARRYING UP TO ONE HUNDRED FIVE THOUSAND FIVE HUNDRED (105,500) POUNDS SHALL BE DESIGNATED IN FOUR CATEGORIES.**

The “Extra Length Map” listing the designated routes for vehicles operating up to one hundred five thousand five hundred (105,500) pounds is available at the Idaho Transportation Department offices. This map is not the same as the “Designated Routes Up to 129,000 Pound Map” listed in Section 200 of these rules. (7-1-19)

**01. Blue-Coded Routes.** Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (blue-coded routes). A vehicle combination operating on routes designated for up to ninety-five (95) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed. (7-1-19)

**02. Red-Coded Routes.** Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed. (7-1-19)

**03. Black-Coded Routes.** Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). A vehicle combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy-five (8.75) feet when computed. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seventy-five (8.75) feet off-tracking. (7-1-19)

**04. Green-Coded Routes.** Selected state highway routes (green coded routes) for operation of a vehicle combination whereby its maximum off-tracking will not exceed three (3) feet on a one hundred sixty-five (165) foot radius when computed, and its overall length including load overhang does not exceed eighty-five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes, and traffic operations. (7-1-19)

**101. – 199. (RESERVED)**

**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: (7-1-19)

**01. Brakes.** All axles shall be equipped with brakes that meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. (7-1-19)

**02. 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. (7-1-19)

**a. Black-Coded Routes.** Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). A vehicle combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seven five (8.75) feet when computed. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seven five (8.75) feet off-tracking. (7-1-19)

**b. 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. (7-1-19)

**c. 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. (7-1-19)

**d. 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. (7-1-19)

**03. 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: (7-1-19)

**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. (7-1-19)

**b. Request Review/Analysis Process.** (7-1-19)

**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. (7-1-19)



- 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. (7-1-19)
  - 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. (7-1-19)
  - 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. (7-1-19)
  - 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. (7-1-19)
  - vi. The Department will notify the requestor of the Chief Engineer's Preliminary Order and post to the Idaho Transportation Department Web site. (7-1-19)
  - 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. (7-1-19)
- 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. (7-1-19)

**201. – 299. (RESERVED)**

**300. OPERATING REQUIREMENTS FOR EXTRA-LENGTH/EXCESS WEIGHT PERMITS 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: (7-1-19)

**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. (7-1-19)

**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. (7-1-19)

**03. Connecting Devices.** Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393. (7-1-19)

**04. Hazardous Travel Conditions Restrictions.** Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for limitations on travel during hazardous conditions. (7-1-19)

**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.) (7-1-19)

**06. Operating Restrictions.** Operators of all vehicle combinations governed by this rule shall comply with the following operating restrictions: (7-1-19)

a. A minimum distance of five hundred (500) feet shall be maintained between combinations of vehicles except when overtaking and passing. (7-1-19)

**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. (7-1-19)

**c.** Be in compliance with all Federal Motor Carrier Safety Regulations. (7-1-19)

**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. (7-1-19)

**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. (7-1-19)

**09. Brakes.** Brakes shall meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)

**10. Drivers.** Drivers of LCVs shall meet the special training requirements for Longer Combination Vehicles as outlined in 49 CFR Part 380. (7-1-19)

**11. Permits.** Permits will be vehicle specific. (7-1-19)

**301. – 399. (RESERVED)**

**400. SPECIAL PERMITS FOR OPERATIONS OF EXTRA-LENGTH/EXCESS WEIGHT PERMIT UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS VEHICLE COMBINATIONS.**

**01. Permit Attachments.** All vehicles in operation shall be allowed to travel under the authority of special permits issued to the power unit. A copy of this rule shall accompany and shall be a part of all annual extra-length/excess weight, up to one hundred twenty-nine thousand (129,000) pound permits. An allowable gross loads table shall accompany and be referred to on the face of the permit. Operations shall be valid only on routes of the state highway system designated for such purposes as set forth on the "Extra Length Map" of designated routes, or the "Designated Routes Up to 129,000 Pound Map," which shall accompany the permit, and is available at the special permit office and ports of entry. (7-1-19)

**02. Permit Requirements and Special Requirements.** Permits issued for operations of extra-length / excess weight up to 129,000 pound vehicle combinations shall be subject to the general requirements of Section 300, and to the following special conditions. (7-1-19)

**a.** The operator of any extra-length, excess weight, and up to one hundred twenty-nine thousand (129,000) pound vehicle combination shall complete the Idaho Off-Track Computation Form to provide internal dimensions of the combination and computation of off-track as evidence of compliance with maximum off-track requirements specified for the designated route being traveled. The completed Idaho Off-Track Computation Form, when required, shall be available for inspection by enforcement officers with the permit for the vehicle combination. When the Idaho Off-Track Computation Form is required, permit shall be invalid until the form is completed and available for inspection. (7-1-19)

**b.** Permits shall become automatically invalid subject to conditions cited in IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)

**03. Exceeding Allowed Length and/or Idaho Off-Track Limitations.** Extra-length/excess weight permit up to one hundred twenty-nine thousand (129,000) pound vehicle combinations apprehended for exceeding allowed length and/or off-track limitations as set forth in this rule shall be subject to the following course of action: (7-1-19)

**a.** The vehicle combination will be escorted by the apprehending officer to the first safe parking location; and (7-1-19)

**b.** The driver of the vehicle combination will be issued a single trip, one (1) day permit via a specified route to the nearest permitted route. The condition of this permit shall require an advance pilot/escort vehicle to escort the vehicle combination, and the pilot/escort vehicle shall meet the pilot/escort vehicle requirements as set forth in IDAPA 39.03.05, “Rules Governing Special Permits - Oversize Non-Reducible.” (7-1-19)

**401. – 499. (RESERVED)**

**500. GENERAL WEIGHT REQUIREMENTS AND CONDITIONS.**

**01. Weights Allowed on Interstate.** The Federal Highway Amendment Act of 1974 established allowable legal weight limits on Interstate System Highways at twenty thousand (20,000) pounds on single axles, thirty-four thousand (34,000) pounds on tandems, and total gross loads not exceeding eighty thousand (80,000) pounds. (7-1-19)

**02. Weights Allowed on Non-Interstate Highways.** Allowable legal weight limits on non-interstate highways are set at twenty thousand (20,000) pounds on single axles, thirty-seven thousand eight hundred (37,800) pounds on tandems, and total gross loads not exceeding eighty thousand (80,000) pounds. (7-1-19)

**03. Permit Types to Exceed Eighty Thousand Pounds Gross Weight.** Permits will be issued for vehicle combinations operating on Interstate and non-interstate highways with total gross loads exceeding eighty thousand (80,000) pounds but not to exceed twenty thousand (20,000) per single axle, thirty-four thousand (34,000) pounds per tandem, and not to exceed the weight limit for any group of two (2) or more consecutive axles established by Section 49-1001, Idaho Code. (7-1-19)

**a.** Extra Length/Excess Weight Permit Up to One Hundred Twenty-Nine Thousand (129,000) Pounds. Gross weight limited to one hundred five thousand five hundred (105,500) pounds on interstate, non-interstate and local highways and length limited to those specified in these rules. Except that no vehicle combination weighing more than one hundred five thousand five hundred (105,500) pounds shall operate on local highways contrary to the provisions of Section 49-1004A, Idaho Code, and these rules. (7-1-19)

**b.** Extra Length/Excess Weight Permit Up to One Hundred Twenty-Nine Thousand (129,000) Pounds. Gross weight not to exceed one hundred twenty-nine thousand (129,000) pounds on designated routes, as specified in Section 49-1004 and Section 49-1004B, Idaho Code. (7-1-19)

**501. – 999. (RESERVED)**

## 39.03.07 – RULES GOVERNING SPECIAL PERMITS FOR REDUCIBLE LOADS

### 000. LEGAL AUTHORITY.

This rule, governing the movement of vehicles and/or loads that are in excess of the sizes allowed by Sections 49-1004 and 49-1010, Idaho Code, is adopted under the authority of Section 49-201, Idaho Code. (7-1-19)

### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.03.07, “Rules Governing Special Permits for Reducible Loads,” IDAPA 39, Title 03, Chapter 07. (7-1-19)

**02. Scope.** This rule states the maximum sizes allowed by special permit for reducible loads. (7-1-19)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

Refer to IDAPA 39.03.01, “Rules Governing Definitions Regarding Special Permits,” for definitions of the terms used in this rule. (7-1-19)

### 011. – 099. (RESERVED)

### 100. GENERAL REQUIREMENTS.

Refer to IDAPA 39.03.05, “Rules Governing Special Permits – Oversize Non-Reducible,” for conditions required for the issuance of special permits. (7-1-19)

**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. (7-1-19)

**02. Overwidth Overhang.** Overwidth loads shall distribute overhang to the sides of the trailer as evenly as possible. (7-1-19)

### 101. – 199. (RESERVED)

### 200. PERMITS FOR MULTIPLE-WIDTH OR MULTIPLE-HEIGHT LOADING.

**01. Cylindrical Hay Bales.** Special permits may be issued for overwidth transportation of cylindrical hay bales, produced by balers having bale chambers which may be five (5’) feet or more in width. Such bales may be loaded two (2) bales wide and two (2) bales high. Hauling vehicles eligible for permit for this purpose shall be legal size vehicles registered for travel on public highways. Operation of such overwidth loads shall be subject to the same time of travel and other safety requirements as other overwidth loads having a similar width, see IDAPA 39.03.04, “Rules Governing Special Permits – Overweight Non-Reducible.” This type of operation is intended as an option to the use of farm tractors hauling such loads on size-exempt implement of husbandry vehicles. Maximum width of such loads without tolerance may not exceed eleven feet six inches (11’6”). (7-1-19)

**02. Reducible Height Loads.** Special permits may be issued to allow the transportation of reducible loads in excess of fourteen (14’) feet high but not in excess of fifteen (15’) feet high on designated highways. The vehicle height must not exceed fourteen (14’) feet. A map listing the vertical clearances is available at the Idaho Transportation Department Special Permit Office and online at [itd.idaho.gov](http://itd.idaho.gov). (7-1-19)

**03. Kiln Lumber Stacks.** Special permits may be issued to allow the transportation of specifically produced kiln lumber stacks in excess of eight feet six inches (8’6”) wide but not in excess of nine feet three inches (9’3”) wide on designated highways. Each kiln lumber stack shall be considered a single non-reducible unit and may be hauled two (2) stacks wide and two (2) stacks high. Hauling vehicles eligible for permit for this purpose shall be legal size vehicles registered for travel on public highways. Operations of such overwidth loads shall be subject to the same type of travel restrictions and other safety requirements as other overwidth loads having a similar width, see IDAPA 39.03.04, “Rules Governing Special Permits – Overweight Non-Reducible.” (7-1-19)

### 201. – 999. (RESERVED)

## 39.03.08 – RULES GOVERNING SELF-PROPELLED SNOWPLOWS

### 000. LEGAL AUTHORITY.

The rule is adopted under authority of Sections 40-312, 49-929, and 49-1004, Idaho Code. (7-1-19)

### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.03.08, “Rules Governing Self-Propelled Snowplows,” IDAPA 39, Title 03, Chapter 08. (7-1-19)

**02. Scope.** Self-propelled snowplows cannot comply with the safety requirements as other oversize loads due to the nature of their operation. Therefore, this rule is promulgated to state the regulations, safety, and standardizes the lighting systems for overwidth self-propelled snowplows operating under special permit authority. These specifications and standards supersede Administrative Policy A-05-26 (dated 6-23-82) and Board Policy B-05-26 (dated 6-16-82). The self-propelled snowplows will be permitted at the rates listed in Rule 39.03.03, “Rules Governing Special Permit – General Conditions and Requirements,” for oversize loads. (7-1-19)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

In addition to the definitions set forth in IDAPA 39.03.01, “Rules Governing Definitions Regarding Special Permits,” the following terms are used in this rule. (7-1-19)

**01. Snow Removal Equipment.** Any private or publicly-owned vehicle classified as a motorized vehicle as defined in Section 49-123, Idaho Code, that has been equipped with snow removal equipment and is being used for snow removal on any public highway. (7-1-19)

### 011. – 099. (RESERVED)

## 100. CONDITIONS AND REQUIREMENTS FOR OPERATION OF SELF-PROPELLED SNOWPLOWS ON THE STATE HIGHWAY SYSTEM.

**01. General Conditions.** Refer to IDAPA 39.03.03, “Rules for Governing Special Permits – General Conditions and Requirements,” for conditions required for the issuance of special permits. (7-1-19)

**02. No Pilot/Escort Vehicles Required.** Self-propelled snowplows utilized to clear roads, streets, and other locations of snow or debris may operate with no escort vehicles required twenty-four (24) hours a day, seven (7) days a week, including holidays. (7-1-19)

**03. Warning Flags.** An eighteen (18”) inch by eighteen (18”) inch red or fluorescent orange flag shall be mounted near the extremities of the blade if it exceeds eight feet six inches (8’6”) inches in width. (7-1-19)

**04. Clearance Light or Reflector Requirements.** When operating during hours of darkness, a clearance light or a clearance reflector that meets the specifications listed in Sections 49-910 and 49-911, Idaho Code, shall be mounted near the extremities of the blade if the blade exceeds eight feet six inches (8’6”) inches in width. (7-1-19)

**05. Headlamps, Turn Signals, and Flashing Lights.** Headlamps, turn signals, and flashing lights shall be mounted on snow removal equipment at sufficient height to clear all snow removal apparatus. (7-1-19)

**06. Visibility Requirements.** Flashing identification lights on snow removal equipment must be amber or red colored, and mounted on the cab or truck bed. They shall be mounted so as to be visible from the front, amber only in color, and rear, red or amber in color, regardless of vehicle configuration, for example, when the truck bed is raised. Flashing lights shall be visible from a distance of not less than one thousand (1,000’) feet in normal sunlight, and not less than two thousand five hundred (2,500’) feet under average visibility conditions at night. (7-1-19)

**07. Lights to Meet Idaho Code Requirements.** Tail lamps, stop lamps, and clearance lamps on snow removal equipment must meet standards specified in Idaho Code. (7-1-19)

### 101. – 999. (RESERVED)

### 39.03.40 – RULES GOVERNING JUNKYARDS AND DUMPS

#### 000. LEGAL AUTHORITY.

The Idaho Transportation Board adopts this rule under the authority of Section 40-312, Idaho Code. (12-26-90)

#### 001. TITLE AND SCOPE.

This rule is titled IDAPA 39.03.40, “Rules Governing Junkyards and Dumps,” and provides guidelines for the control of junkyards and dumps within one thousand (1,000) feet of the nearest edge of the right-of-way for interstate, primary freeways and primary highways of the state of Idaho pursuant to Chapters 1 and 19, Title 40, Idaho Code. (12-26-90)

#### 002. -- 009. (RESERVED)

#### 010. DEFINITIONS.

**01. Abandoned Junkyard.** A junkyard that was operated as a business enterprise in the past, now existing with inventory, but without proprietorship or claim of ownership. The underlying fee title holder has no interest in the inventory. (12-26-90)

**02. Acceptable Fencing Materials.** Steel or other metals, durable woods, or other woods treated with a preservative or walls of masonry. (12-26-90)

**03. Acceptable Planting Materials.** Shrubs, trees, flowering plants and foliage. (12-26-90)

**04. Destroyed Junkyard.** A junkyard that was operated as a business enterprise in the past that has been partially or totally destroyed by act of God or other means; and where the proprietor is not presently buying or selling junk. (12-26-90)

**05. Discontinued Junkyard.** A junkyard that was operated as a business enterprise in the past and where the proprietor is retaining the inventory for the present, but is not actively engaged in buying or selling junk. (12-26-90)

**06. Industrial Activities.** Those permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the State, except that none of the following shall be considered industrial activities. (12-26-90)

a. Outdoor advertising structures. (12-26-90)

b. Forest, farms and ranches. (12-26-90)

c. Activities normally and regularly in operation less than three (3) months of the year. (12-26-90)

d. Transient or temporary activities. (12-26-90)

e. Activities not visible from the traffic lanes of the main traveled way. (12-26-90)

f. Activities more than three hundred (300) feet from the nearest edge of the main traveled way. (12-26-90)

g. Activities conducted in a building principally used as a residence. (12-26-90)

h. Railroad tracks, minor sidings and passenger depots. (12-26-90)

i. Junkyards, as defined in Section 136, Title 23, U.S.Code. (12-26-90)

**07. Junkyard.** A place of business which is maintained, used, or operated for storing, keeping, buying, or selling ten (10) or more wrecked, scrapped, ruined, or dismantled motor vehicles or other types of machines; or equivalent amounts of old scrap copper, brass, rope, rags, batteries, paper, trash, junk, rubber, debris, waste, iron, steel, and other old or scrap ferrous or non-ferrous material or any combination of the above. (12-26-90)

**08. Non-Conforming Junkyard.** One (1) which was lawfully established, but which does not comply with the provisions of state law or state regulations passed at a later date or which later fails to comply with state

regulations due to changed conditions. An example of changed conditions would be a junkyard lawfully in existence in an area which at a later date becomes non-industrial and thus subject to control, or a junkyard established on a non-primary highway later upgraded to a primary highway. Illegally established or maintained junkyards are not non-conforming junkyards. (12-26-90)

**09. Screening.** The use of any vegetative planting, fencing, ornamental wall of masonry, or other architectural treatment, earthen embankment, or a combination of any of these which will render invisible any deposit of junk from the main traveled way. (12-26-90)

**10. Unzoned Industrial Area.** The land occupied by the regularly used building, parking lot, storage or processing area of an industrial activity, and that land within one thousand (1,000) feet thereof which is: (12-26-90)

- a.** Located on the same side of the highway as the principal part of said activity. (12-26-90)
- b.** Not predominately used for residential or commercial purposes. (12-26-90)
- c.** Not zoned by state or local law, regulation or ordinance. (12-26-90)

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

**100. APPLICATIONS, LICENSES, AND PERMITS.**

**01. General.** (12-26-90)

**a.** A license or permit shall be issued to any person for the operation of a junkyard or dump when such person has made application for and obtained approval for such license or permit on the form provided for that purpose by the Department. (12-26-90)

**b.** Any person operating a junkyard or dump shall submit a basic plan for screening the same, together with his application, which shall first be approved by the Department, before the installation of such screening and before a license or permit for the operation of such junkyard or dump shall be issued. (12-26-90)

**c.** All junkyards and dumps requiring screening by the owner so as not to be visible from the roadway by motorists using the roadway shall provide such screening, which may include shrubs, trees, flowering plants, foliage, fencing, buildings, or some other type of screening as shall first have been approved by the Department. (12-26-90)

**d.** Every junkyard or dump shall be operated and maintained in accordance with the plan for screening which has been approved by the Department for the issuance of the license or permit. Failure of any person to so operate or maintain said junkyard or dump shall result in the revocation of the license or permit issued. (12-26-90)

**e.** Applications for junkyard licenses or dump permits may be secured at the Idaho Transportation Department, 3311 West State Street, Boise, Idaho 83707, or at the following District offices: District One, 605 Prairie, Coeur d'Alene, Mailing address -- P.O. Box D, Coeur d'Alene, Idaho 83814; District Two, 26th and North and South Highway, Lewiston, Mailing address -- P.O. Box 837, Lewiston, Idaho 83501; District Three, 8150 Chinden Blvd., Boise, Mailing address -- P.O. Box 8028, Boise, Idaho 83707; District Four, 216 Date Street, Shoshone, Mailing address -- P.O. Box 2-A, Shoshone, Idaho 83352; District Five, 5151 South 5th, Pocatello, Mailing address -- P.O. Box 4700, Pocatello, Idaho 83201; District Six, 206 North Yellowstone, Rigby, Mailing address -- P.O. Box 97, Rigby, Idaho 83442. (12-26-90)

**02. Conformity.** (12-26-90)

**a.** A non-conforming junkyard may continue as long as it is not abandoned, destroyed or voluntarily discontinued. Once a junkyard is abandoned, destroyed or voluntarily discontinued for a period of six (6) months or more, it becomes subject to laws and rules of a new junkyard. (12-26-90)

**b.** Junkyards shall be allowed in areas zoned industrial by local zoning ordinances, except that where such ordinances create several classes or zones of industrial use and one (1) or more classes or zones do not permit junkyards, local zoning shall control. (12-26-90)

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

**200. SCREENING.**

**01. General Screening Requirements.** (12-26-90)

- a.** The screening shall be located on the owner's land and not on any part of the highway right-of-way. (12-26-90)
- b.** The screen shall be in place prior to the time the junk is deposited. (12-26-90)
- c.** At no time after the screen is established shall the junk be stacked high enough to be visible above the screen. No junk shall be placed outside of the screened areas or in the areas not covered by license. (12-26-90)

**02. Screening Plan.** (12-26-90)

- a.** The screening plan should provide a practical irrigation or watering system where necessary. (12-26-90)
- b.** The screening plan should provide a replacement and fertilization program. (12-26-90)
- c.** The screening plan should provide for landscaping that is relatively maintenance free. (12-26-90)
- d.** The screening plan can provide a living screen which may be used in conjunction with a fence or wall. (12-26-90)

**201. FENCES.**

**01. Location.** Fences must be located in such a manner as to not be hazardous to the traveling public. (12-26-90)

**02. Uniformity.** Construction shall be uniform and no patch work type of construction shall be permitted. (12-26-90)

**03. Required Painting.** Fences shall be painted where the composition is such that painting is required. The paint used shall be of such color so as to blend into the environs of the highway right-of-way. (12-26-90)

**04. Specifications.** Fences shall be constructed as specified in Department's "Standard Drawings." (12-26-90)

**05. Strength.** Fences shall be designed and constructed to withstand adverse wind pressures. (12-26-90)

**06. Gate Openings.** Fences shall have gates that are kept closed except for ingress and egress of moving vehicles or have gateways so constructed to screen the inventory and operation from the highway user at all times. (12-26-90)

**07. Visibility.** Some of the types of fences acceptable to preclude "see through" are: (12-26-90)

- a.** Chain link type with aluminum, steel, plastic or wooden slat inserts. (12-26-90)
- b.** Wooden types of basket weave, palisade, louver, or other suitable design. (12-26-90)



c. Wall of masonry including plain or ornamental concrete block, brick, stone or other suitable masonry material. (12-26-90)

d. Any other design of fencing constructed of other materials may be submitted for consideration. (12-26-90)

**202. PLANTING MATERIALS.**

**01. Species.** Plant materials indicated on the plans shall specify the common and botanical name of the plant materials used, the size at the time of planting and the spacing between plants. (12-26-90)

**02. Growth and Conformity.** Plant materials should be native to the area which grow to an appropriate height within a three (3) year period and are long-lived. The plantings should complement the existing highway and adjacent land use environmental condition. (12-26-90)

**03. Caretaking.** Plant material shall be watered, cultivated, or mulched, and given any required maintenance including spraying for insect control, to keep the planting material in a good healthy condition. (12-26-90)

**04. Replacement.** Dead plant material will be removed immediately and shall be replaced during the next spring or fall planting season following death. The replacement plants shall be at least as large as the initial planting. (12-26-90)

**203. EARTHEN EMBANKMENTS.**

Such as berms or mounds may be considered. (12-26-90)

**01. Conformity.** After grading, landscaping must be done to maintain a natural environmental appearance. (12-26-90)

**02. Mix.** May be used in conjunction with fences and plant materials. (12-26-90)

**204. -- 299. (RESERVED)**

**300. ADMINISTRATIVE HEARINGS.**

Any person desiring an administrative hearing before the Idaho Transportation Board on any question involving this rule or any person desiring to appeal any administrative decision made by the Department of Transportation under this rule shall do so in accordance with the Department of Transportation's administrative procedure manual and as provided by law. (12-26-90)

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

**400. PENALTIES.**

Any person violating the provisions of this regulation or operating a junkyard without a license or a dump without a permit as provided for herein, shall be subject to the penalties provided in Section 40-1926, Idaho Code. (12-26-90)

**401. -- 999. (RESERVED)**

## 39.03.41 – RULES GOVERNING TRAFFIC CONTROL DEVICES

### 000. LEGAL AUTHORITY.

The Idaho Transportation Board adopts this rule under the authority of Section 40-312(1), Idaho Code, to meet the provisions of Sections 40-313(1) and 49-201(3), Idaho Code. (3-29-12)

### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39.03.41, “Rules Governing Traffic Control Devices,” IDAPA 39, Title 03, Chapter 41. (3-30-01)

**02. Scope.** It is the purpose of this rule to establish standards, guidance, options, and supporting information for the design, construction and implementation of traffic control devices. ( )

### 002. – 003. (RESERVED)

### 004. INCORPORATION BY REFERENCE.

The “Manual on Uniform Traffic Control Devices for Streets and Highways” is published by the Federal Highway Administration of the U.S. Department of Transportation. The 2009 edition including revisions 1 and 2 of the Manual with an effective date of June 13, 2012, is hereby incorporated by reference and made a part of the Rules of the Idaho Transportation Department. The following conforming additions to the Manual are adopted by the Idaho Transportation Board: (4-4-13)

**01. Section 1A.10, Interpretations, Experimentations, Changes, and Interim Approvals.** On page 7, delete paragraphs 19 and 20. ( )

**02. Section 1A.11, Relation to Other Documents.** ( )

**a.** On page 7, replace paragraph 01 as follows:

01 To the extent that they are incorporated by specific reference, the latest editions of the following publications, or those editions specifically noted, shall be a part of this Manual: “Standard Highway Signs and Markings” book, the Idaho Transportation Department Supplement to the Standard Highway Signs and Markings book; and “Color Specifications for Retroreflective Sign and Pavement Marking Materials” (appendix to subpart F of Part 655 of Title 23 of the Code of Federal Regulations).

( )

**b.** Add the following to the end of paragraph 04:

43. “Standards and Procedures for Specific Service Signs,” 20XX Edition (ITD)  
44. “Standards and Procedures for Tourist Oriented Directional Signs (TODS) for Motorist Services Facilities Along the State Highway System Except Fully Controlled Access Highways,” 20XX Edition (ITD)

( )

**03. Table 2B-1. Regulatory Sign and Plaque Sizes.** On page 46, remove R1-5b, “Stop Here for Peds,” R1-5c, “Stop Here for Pedestrians,” R1-6a, and R1-9a. ( )

**04. Section 2B.11. Yield Here To Pedestrians Signs and Stop Here For Pedestrian Signs (R1-5 Series).** On page 54 delete “and Stop Here For Pedestrian” from the title. Replace the Section with the following:

Standard:  
01 Yield Here To Pedestrians (R1-5, R1-5a) signs (see Figure 2B-2) shall be used if yield lines are used in advance of a marked crosswalk that crosses an uncontrolled multi-lane approach. The legend Stop Here For Pedestrians shall not be used.  
Support:  
02 Idaho law requires drivers to yield to a pedestrian in an uncontrolled crosswalk.

Guidance:

03 If yield lines and Yield Here To Pedestrian signs are used in advance of a crosswalk that crosses an uncontrolled multi-lane approach, they should be placed 20 to 50 feet in advance of the nearest crosswalk line (see Section 3B.16 and Figure 3B-17), and parking should be prohibited in the area between the yield line and the crosswalk.

04 Yield lines and Yield Here To Pedestrian signs should not be used in advance of crosswalks that cross an approach to or departure from a roundabout.

Option:

05 Yield Here To Pedestrian signs may be used in advance of a crosswalk that crosses an uncontrolled multi-lane approach to indicate to road users where to yield even if yield lines are not used.

06 A Pedestrian Crossing (W11-2) warning sign may be placed overhead or may be post-mounted with a diagonal downward pointing arrow (W16-7P) plaque at the crosswalk location where Yield Here To Pedestrian signs have been installed in advance of the crosswalk.

07 The legend STATE LAW may be displayed at the top of the R1-5 and R1-5a signs.

Standard:

08 If a W11-2 sign has been post-mounted at the crosswalk location where a Yield Here To Pedestrians sign is used on the approach, the Yield Here To Pedestrian sign shall not be placed on the same post as or block the road user's view of the W11-2 sign.

Option:

09 An advance Pedestrian Crossing (W11-2) warning sign with an AHEAD or a distance supplemental plaque may be used in conjunction with a Yield Here To Pedestrians sign on the approach to the same crosswalk.

10 In-Street Pedestrian Crossing signs and Yield Here To Pedestrian signs may be used together at the same crosswalk.

( )

**05. Section 2B.12, In-Street and Overhead Pedestrian Crossing Signs (R1-6, R1-6a, R1-9, and R1-9a).**

a. On page 55 delete R1-6a and R1-9a from the title. Replace paragraph 01 as follows:

Option:

01 The In-Street Pedestrian Crossing (R1-6) sign (see Figure 2B-2) or the Overhead Pedestrian Crossing (R1-9) sign (see Figure 2B-2) may be used to remind road users of laws regarding right-of-way at an unsignalized pedestrian crosswalk. The legend STATE LAW may be displayed at the top of the R1-6 and R1-9 signs. On the R1-6 sign, the legend YIELD may be used instead of the YIELD sign symbol.

( )

b. On page 56, replace paragraphs 08 and 09 and add paragraph 09a as follows:

Standard:

08 The In-Street Pedestrian Crossing sign and the Overhead Pedestrian Crossing sign shall not be used at crosswalks on approaches controlled by a traffic control signal, pedestrian hybrid beacon, or an emergency vehicle hybrid beacon.

09 The legend STOP FOR PEDESTRIANS shall not be used on In-Street Pedestrian Crossing signs or Overhead Pedestrian Crossing signs.

Support:  
09a Idaho law requires drivers to yield to a pedestrian in an uncontrolled crosswalk.

( )

c. On page 56, add paragraph 11a as follows:

11a The In-Street Pedestrian Crossing sign or the Overhead Pedestrian Crossing sign may be used at intersections or midblock pedestrian crossings with flashing beacons.

( )

d. On page 56, replace paragraph 15 as follows:

15 In-Street Pedestrian Crossing signs, Overhead Pedestrian Crossing signs, and Yield Here To Pedestrian signs may be used together at the same crosswalk.

( )

**06. Figure 2B-2. Unsignalized Pedestrian Crosswalk Signs.** On page 55, delete signs R1-5b, R1-5C, R1-6a and R1-9a.

( )

**07. Section 2B.69, SLOW AND MOVE OVER FOR STOPPED VEHICLES WITH FLASHING LIGHTS (R16-101) sign.** On page 102, add the following section:

Support:  
01 State law requires drivers approaching stationary police, emergency, tow truck, or highway incident response vehicles to slow on two-lane highways and to slow and move over on multi-lane highways.

Option:  
02 The SLOW AND MOVE OVER FOR STOPPED VEHICLES WITH FLASHING LIGHTS (R16-101) sign (see Figure 2B-33) may be used to inform road users of the state law on multi-lane highways.

Standard:  
03 If used, the SLOW AND MOVE OVER FOR STOPPED VEHICLES WITH FLASHING LIGHTS sign shall only be used on highways with two or more lanes in each direction.

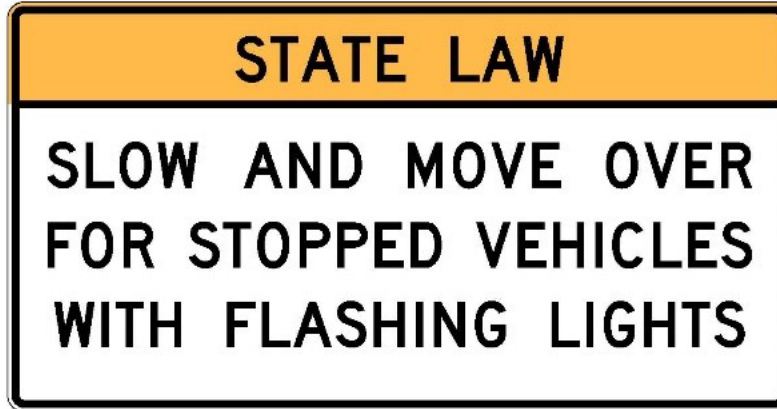
Option:  
04 The legend STATE LAW may be displayed at the top of the SLOW AND MOVE OVER FOR STOPPED VEHICLES WITH FLASHING LIGHTS sign.

Standard:  
05 If used, the legend STATE LAW shall be black with a black border on a yellow background.

( )

**08. Figure 2B-33. Slow and Move Over for Stopped Vehicles with Flashing Lights Sign.** On page 102, add the following figure:

**Figure 2B-33. Slow And Move Over For Stopped Vehicles With Flashing Lights Sign**



( )

**09. Section 2B.70, CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES (R16-201) sign.** On page 102, add the following section:

Standard:

01 CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES (R16-201) signs (see Figure 2B-34) shall be installed when mountain passes are determined to be unsafe by the Idaho Transportation Department. If used, two or more CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES signs shall be installed in advance of an area that has been provided for drivers to pull off of the highway to install chains on their tires (see Section 2I.07).

Support:

02 Commercial vehicles required to use chains include:

- Vehicles with a combined weight in excess of 26,000 pounds including a trailer with a rating of more than 10,000 pounds
- Vehicles with weight in excess of 26,000 pounds

03 Commercial vehicles exempt from chain requirements include:

- Idaho Transportation Department vehicles used in the maintenance of the highway
- School busses or other vehicles used to transport school children and teachers
- Vehicles used by farmers to transport agricultural products, supplies, or farm equipment
- Mail carrier vehicles
- Motor carriers transporting forest products or chips
- Motor carriers transporting mining products including sand, gravel, and aggregates, but not petroleum products
- Tow trucks

Standard:

04 The CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES signs shall be removed or covered when the condition no longer applies.

05 The CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES sign shall have a black legend and border on a white background.

Option:

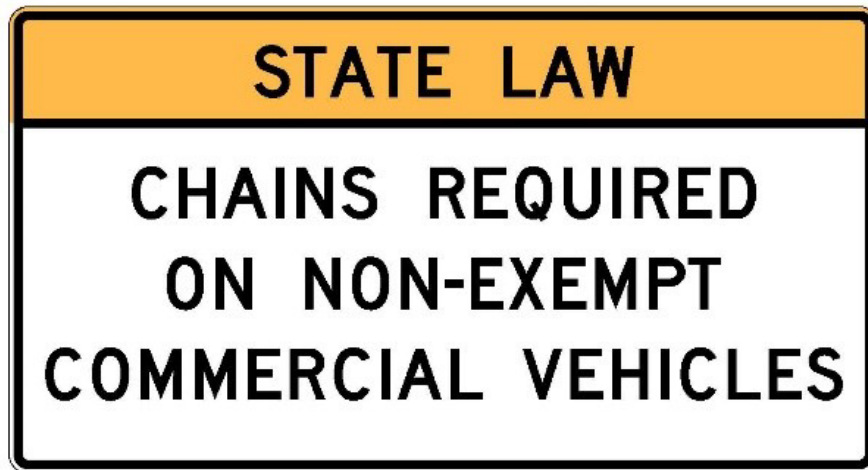
06 The legend STATE LAW may be displayed at the top of the CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES sign.

Standard:  
 07 If used, the legend STATE LAW shall be black with a black border on a yellow background.

( )

10. **Figure 2B-34. Chains Required on Non-Exempt Commercial Vehicles Sign.** On page 102, add the following figure:

**Figure 2B-34. Chains Required On Non-Exempt Commercial Vehicles Sign**



( )

11. **Section 2D.43, Street Name Signs (D3-1 or D3-1a).** (3-29-12)

a. On page 162, change the fifteenth paragraph under the Option statement to read as follows: The border may be omitted from a Street Name sign except on State Highways. ( )

12. **Table 2E-1. Freeway or Expressway Guide Sign and Plaque Sizes.** On page 186, replace the first 16 lines of the table with the following:

Sign or Plaque	Sign Designation	Section	Minimum Size
Exit Number (plaque)			
1-, 2-Digit Exit Number	E1-5P	2E.31	114 x 36
3-Digit Exit Number	E1-5P	2E.31	132 x 36
1-, 2-Digit Exit Number (with single letter suffix)	E1-5P	2E.31	138 x 36
3-Digit Exit Number (with single letter suffix)	E1-5P	2E.31	156 x 36
1-, 2-Digit Exit Number (with dual letter suffix)	E1-5P	2E.31	168 x 36
3-Digit Exit Number (with dual letter suffix)	E1-5P	2E.31	186 x 36
Left (plaque)	E1-5aP	2E.33	72x36
Left Exit Number (plaque)			
1-, 2-Digit Exit Number	E1-5bP	2E.31	114 x 60

Sign or Plaque	Sign Designation	Section	Minimum Size
3-Digit Exit Number	E1-5bP	2E.31	132 x 60
1-, 2-Digit Exit Number (with single letter suffix)	E1-5bP	2E.31	138 x 60
3-Digit Exit Number (with single letter suffix)	E1-5bP	2E.31	156 x 60
1-, 2-Digit Exit Number (with dual letter suffix)	E1-5bP	2E.31	168 x 60
3-Digit Exit Number (with dual letter suffix)	E1-5bP	2E.31	186 x 60

( )

**13. Section 2E.31, Interchange Exit Numbering.** On page 212, substitute the following for the fourth sentence of paragraph 04: “The exit number plaque (E1-5P) (see Figure 2E-22) shall be thirty-six (36) inches in height and shall include the word “EXIT” along with the appropriate exit number.” ( )

**14. Section 2M.10, Memorial or Dedication Signing.** On page 339, replace the section with the following:

Support:  
 01 Legislative bodies will occasionally adopt an act or resolution memorializing or dedicating a highway, bridge, or other component of the highway. State law identifies the following as memorial highways or bridges in Idaho:

- Bennett Bay Bridge on I-90 as Veterans Memorial Centennial Bridge
- US-93 bridge over the Snake River as I B Perrine Bridge
- US-95 between Midvale and Cambridge as Stu Dopf Memorial Highway
- I-90 as the Purple Heart Trail
- SH-3 as North Idaho Medal of Honor Highway
- I-84 as Vietnam Veterans Memorial Highway
- US-20 as Idaho Medal of Honor Highway

Guidance:  
 02 Except as provided in Paragraphs 03 and 04, memorial or dedication names should not appear on or along a highway, or be placed on bridges or other highway components. If a route, bridge, or highway component is officially designated as a memorial or dedication, and if notification of the memorial or dedication is to be made on the highway right-of-way, such notification should consist of installing a memorial or dedication marker in a rest area, scenic overlook, recreational area, or other appropriate location where parking is provided with the signing inconspicuously located relative to vehicle operations along the highway.

Option:  
 03 If the installation of a memorial or dedication marker off the main roadway is not practical, memorial or dedication signs may be installed on the mainline.

Guidance:  
 04 Except as provided in paragraphs 06 and 07, freeways and expressways should not be signed as memorial or dedicated highways.

Standard:

05 Where memorial or dedication signs are installed on the mainline, (1) memorial or dedication names shall not appear on directional guide signs, (2) memorial or dedication signs shall not interfere with the placement of any other necessary signing, and (3) memorial or dedication signs shall not compromise the safety or efficiency of traffic flow. Except as provided in paragraph 07, the memorial or dedication signing shall be limited to one sign at an appropriate location in each route direction, each as an independent sign installation. Sign location shall be determined by engineering judgement.

06 Memorial or dedication signs shall be installed for the Veterans Memorial Centennial Bridge, I B Perrine Bridge, and North Idaho Medal of Honor Highway.

07 The Purple Heart Trail, Vietnam Veterans Memorial Highway, and Idaho Medal of Honor Highway shall have memorial or dedication signs installed at each end of the highway and at intermediate locations along the highway.

Guidance:

08 Memorial or dedication signs should have a white legend and border on a brown background.

Standard:

09 Memorial or dedication signs shall be rectangular in shape. The legend displayed on memorial or dedication signs shall be limited to the name of the person or entity being recognized and a simple message preceding or following the name, such as "Dedicated to" or "Memorial Parkway." Additional legend, such as biographical information, shall not be displayed on memorial or dedication signs. Except as provided in paragraph 10, decorative or graphical elements, pictographs, logos, or symbols shall not be displayed on memorial or dedication signs. All letters and numerals displayed on memorial or dedication signs shall be as provided in the "Standard Highway Signs and Markings" book (see Section 1A.11). The route number or officially mapped name of the highway shall not be displayed on the memorial or dedication sign

10 The design of the Idaho Medal of Honor Highway sign shall include three different designs of the medal of honor.

Option:

11 The lettering for the name of the person or entity being recognized may be composed of a combination of lower-case letters with initial upper-case letters.

Standard:

12 Memorial or dedication names shall not appear on supplemental signs or on any other information sign on or along the highway or its intersecting routes.

Support:

13 Named highways are officially designated and shown on official maps and serve the purpose of providing route guidance, primarily on unnumbered highways. A highway designated as a memorial or dedication is not considered to be a named highway. Section 2D.53 contains provisions for the signing of named highways.

( )

**15. Section 2J.11, Signing Policy.** On page 319, add the following after paragraph 01:

Support:

01a The Idaho Transportation Department's specific service signs policy can be found in "Standards and Procedures for Specific Service Signs" (see Section 1A.11).(X-XX-19)

( )

**16. Section 2K.07, State Policy.** On page 324, add the following after paragraph 02:



Support:

03 The Idaho Transportation Department’s tourist-oriented directional signing policy can be found in “Standards and Procedures for Tourist Oriented Directional Signs (TODS) for Motorist Services Facilities Along the State Highway System Except Fully Controlled Access Highways” (see Section 1A.11).

( )

**17. Section 4D.04, Meaning of Vehicular Signal Indications.** On page 451- in the second paragraph of Item C.1, substitute the following for the first sentence: “Except when a traffic control device is in place prohibiting a turn on red or a steady RED ARROW signal indication is displayed, vehicular traffic facing a steady CIRCULAR RED signal indication is permitted to enter the intersection to turn right or turn left from a one-way or two-way street into a one-way street, after stopping.” ( )

**18. Table 6F-1. Temporary Traffic Control Zone Sign and Plaque Sizes.** On page 578, remove R2-6aP, “Begin Higher Fines Zone,” R2-6bP, “Fines Double (plaque),” and R2-10, “\$XX Fine (plaque).” ( )

**19. Figure 6F-3. Regulatory Signs and Plaques in Temporary Traffic Control Zones.** On page 584, remove figures R2-6aP, R2-6bP, and R2-10. ( )

**20. Section 6B.12, Work Zone and Higher Fines Signs and Plaques.** On page 586, replace the section with the following:

Standard:

01 Where increased fines are imposed for exceeding a reduced speed limit, a FINES HIGHER (R2-6P) plaque (see Figure 6F-3) shall be installed as a supplement to a Speed Limit (R2-1) sign to identify the beginning point of the higher fines zone.

Support:

02 Law enforcement can assess higher fines if signs indicate the TTC zone, the reduced speed limit, and notice of the enhanced penalty for exceeding the reduced speed limit.

Guidance:

03 If a FINES HIGHER plaque is used with a Speed Limit sign, an END HIGHER FINES ZONE (R2-11) sign (see Figure 6F-3) should be installed at the downstream end of the zone to notify road users of the termination of the increased fines zone.

Option:

04 Individual signs and plaques for TTC zone speed limits and higher fines may be combined into a single sign or may be displayed as an assembly of signs and plaques.

05 An END WORK ZONE SPEED LIMIT (R2-12) sign (see Figure 6F-3) may be installed at the downstream end of the reduced speed limit zone

06 A WORK ZONE (G20-5aP) plaque (see Figure 6F-3) may be installed above a Speed Limit sign to emphasize the speed limit in a TTC zone.

( )

**21. Table 7B-1. School Area Sign and Plaque Sizes.** On page 733, remove R1-6a, “In-Street Ped Crossing,” R1-6c, “In-Street Schoolchildren Crossing,” and S4-2P, “When Children Are Present.” ( )

**22. Figure 7B-1. School Area Signs.** On page 735, remove figure S4-2P. (3-29-12)

**23. Section 7B.11. School Advance Crossing assembly.** On page 736, delete “or R1-6a” from the first sentence of paragraph 05. ( )

**24. Figure 7B-6. In-Street Signs in School Areas.** On page 741, delete signs R1-6a and R1-6c and remove “and R1-6a” from note 2. ( )

**25. Section 7B.12. School Crossing Assembly.** ( )

a. On page 741, replace paragraph 04 with the following:

Option:  
04 The In-Street Pedestrian Crossing (R1-6) sign (see Section 2B.12 and Figure 7B-6) or the In-Street Schoolchildren Crossing (R1-6b) sign (see Figure 7B-6) may be used at unsignalized school crossings. If used at a school crossing, a 12 x 4-inch SCHOOL (S4-3P) plaque (See Figure 7B-6) may be mounted above the sign. The STATE LAW legend on the R1-6 series signs may be omitted.

( )

b. On page 742, replace paragraphs 06 and 07 with the following:

06 A 12-inch reduced size in-street School (S1-1) sign (See Figure 7B-6) may be used at an unsignalized school crossing instead of the In-Street Pedestrian Crossing (R1-6) or the In-Street Schoolchildren Crossing (R1-6b) sign. A 12 x 6-inch reduced size diagonal downward pointing arrow (W16-7P) plaque may be mounted below the reduced size in-street School (S1-1) sign.

**Standard:**

07 **If an In-Street Pedestrian Crossing sign, an In-Street Schoolchildren Crossing sign, or a reduced size in-street School (S1-1) sign is placed in the roadway, the sign support shall comply with the mounting height and special mounting support requirements for In-Street Pedestrian Crossing (R1-6) signs (see Section 2B.12).**

( )

**26. Section 7B.15. School Speed Limit Assembly (S4-1P, S4-2P, S4-3P, S4-4P, S4-6P, S5-1).** (3-29-12)

a. On page 742, remove S4-2P in the title; and (3-29-12)

b. On page 743, in paragraph 09, remove the S4-2P. ( )

**005. AVAILABILITY OF THE “MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS AND OTHER REFERENCED DOCUMENTS.”**

**01. Review of Documents.** The Manual with an effective date of June 13, 2012, may be viewed and printed from the Federal Highway Administration website at <http://mutcd.fhwa.dot.gov>. Other referenced documents may be reviewed at the Idaho Transportation Department central office or district offices. Office locations can be found at <https://itd.idaho.gov>. ( )

**006. -- 999. (RESERVED)**

**39.03.42 – RULES GOVERNING HIGHWAY RIGHT-OF-WAY  
ENCROACHMENTS ON STATE RIGHTS-OF-WAY**

**000. LEGAL AUTHORITY.**

The Idaho Transportation Board adopts this rule under the authority of Sections 40-310, and 40-312, and per the requirements of Sections 40-311, 40-313, 49-202(19), (23) and (28), and 49-221, Idaho Code. (3-27-13)

**001. TITLE AND SCOPE.**

**01. Title.** This rule shall be known as IDAPA 39.03.42, “Rules Governing Highway Right-of-Way Encroachments on State Rights-of-Way,” IDAPA 39, Title 03, Chapter 42. (3-30-01)

**02. Scope.** It is the purpose of this rule to establish standards and guidelines for encroachments on state highway rights-of-way. (3-30-01)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Shall/Will, Should, May.** The use of “shall” or “will,” “should,” and “may” denote the following conditions: (3-30-01)

**a.** Shall/Will. A mandatory condition or requirement. (3-27-13)

**b.** Should. An advisory or recommended condition, or usage, but not mandatory. (3-27-13)

**c.** May. A permissive condition. No requirement is mandated. (3-27-13)

**02. Access.** The ability to enter or leave a public highway or highway right-of-way from an abutting private property or another public highway or public highway right-of-way. (3-27-13)

**03. ADT.** Average Daily Traffic. The total volume of traffic during a given time period in whole days greater than one (1) day and less than one (1) year divided by the number of days within that time period. (3-30-01)

**04. Applicant.** Agency, owner, or an authorized representative of the property owner, or utility facility applying for a permit to encroach within state highway rights-of-way. (3-27-13)

**05. Appraisal.** A written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of monetary value for a specific property based on a specific use, as of a specific date, supported by the presentation and analysis of relevant market information. (3-27-13)

**06. Approach.** A connection between the outside edge of the shoulder or curb line and the abutting property at the highway right-of-way line, intended to provide access to and from said highway and the abutting property. An approach may include a driveway, alley, street, road or highway. (3-30-01)

**07. Approach Flare.** The approved radius connecting the edge of the approach to the edge of the highway. The term “approach radius” is interchangeable with “approach flare.” (3-30-01)

**08. Approach Transition.** The area from the edge of an urban approach sloped to match the curb and border area elevations. The term “approach apron” is interchangeable with “approach transition.” (3-30-01)

**09. Approach Skew Angle.** For all approaches, the angle of deflection between a line perpendicular to the highway centerline and the approach centerline. (3-30-01)

**10. Approach Width.** The distance between the outside edges of the approach measured perpendicular to the approach centerline along the curb line or the edge of pavement, excluding flares, transitions and radii. (3-30-01)

**11. Authorized Representative.** Any applicant, other than the property owner, having notarized written verification signed by the owner giving authorization to act on the owner’s behalf. (3-27-13)

**12. Auxiliary Lane.** The portion of the roadway adjoining the traveled way used for speed change, turning, storage for turning, weaving, truck climbing, and other purposes supplementary to through-traffic movement. (3-30-01)

13. **Board.** The Idaho Transportation Board, as established by Title 40, Chapter 3, Idaho Code. (3-30-01)
14. **Border Area.** The area between the outside edge of the shoulder or back of curb and the highway right-of way line. (3-30-01)
15. **Boulevard Approach.** A two-way approach intended for high ADT volumes of large commercial vehicles, having a maximum width of eighty-four (84) feet in which opposing traffic is separated by a raised four (4) foot wide non-traversable median. (3-27-13)
16. **Capacity.** The maximum number of vehicles that can reasonably be expected to travel along a lane of a highway during a given time period under prevailing roadway and traffic conditions. (3-30-01)
17. **Clear Zone.** An area outside the traveled way, auxiliary lanes and shoulders that is constructed and maintained as free from physical obstructions as practical, for use as a recovery area by errant vehicles. (3-30-01)
18. **Commercial Approach.** An approach serving a business or businesses. (3-30-01)
19. **Conduit.** A tube or trough for receiving and protecting utility-related structures including, but not limited to, electrical wires, fiber optic cable, and fluids. (3-27-13)
20. **Construction.** The building of new facilities or the modification of existing facilities. Does not include maintenance. (3-27-13)
21. **Corner Clearance.** The distance along the curb line or outside edge of the shoulder measured from the beginning or end of the intersecting roadway flare to the nearest edge of the adjacent approach, excluding flares or transitions. (3-30-01)
22. **Department.** The Idaho Transportation Department (ITD). (3-30-01)
23. **Distance Between Approaches.** The distance measured along the curb line or outside edge of the shoulder between the nearest edges of adjacent approaches, excluding the flares, transitions or radii. (3-30-01)
24. **District.** An administrative and maintenance subdivision of the Idaho Transportation Department encompassing a particular geographical region of the state of Idaho, per Section 40-303, Idaho Code. (3-27-13)
25. **District Engineer.** The administrator of an Idaho Transportation Department administrative district, or a delegated representative. (3-30-01)
26. **District Route.** A state highway that accommodates trips of limited mobility and provides high levels of access to communities, to include distributing trips to geographical areas and serving major commercial and industrial districts. District routes may provide intra-community continuity and connection, to include local bus routes, but should not be used to provide direct access to residential lots. (3-27-13)
27. **Economic Opportunity.** Facilitate the increase in Idaho Gross Domestic Product, job creation, increased business, revenue; improve the efficiency in which goods are transported; and reduction in travel times for commuting, commerce, recreation, and tourism. (3-27-13)
28. **Emergency.** Any unscheduled work required to correct or prevent a hazardous situation that poses an imminent threat to life or property. (3-30-01)
29. **Encroachment.** Any authorized or unauthorized use of highway right-of-way or the air space immediately above the highway right-of-way. (3-27-13)
30. **Encroachment Permit.** Written authorization from the Department to use state highway right-of-way or the airspace above it under the conditions set forth in the permit. (3-27-13)

- 31. Expressway.** A segment of a highway designated by the Idaho Transportation Board for use as a through highway, with partially controlled access, accessible only at locations specified by the Idaho Transportation Department, and characterized by medians, limited at-grade intersections, and high speeds. An existing segment of state highway may only be designated as an expressway if payment is made to adjacent property owners for the restriction of existing access rights. (3-27-13)
- 32. Farming.** Any activity associated with crops, including seed. (3-30-01)
- 33. FHWA.** The Federal Highway Administration, a division of the U. S. Department of Transportation. (3-30-01)
- 34. Fiber Optic Cable.** A cable containing one (1) or more glass or plastic fibers that has the ability to transmit light along its axis. (3-30-01)
- 35. Field Approach.** An approach that serves only non-residential agricultural property, including farmyards. (3-30-01)
- 36. Flare Tangent Distance.** The distance of the approach radius measured along the edge of pavement. (3-30-01)
- 37. Freeway.** A segment of a highway designated by the Idaho Transportation Board for use as a through highway, with fully controlled access, accessible only by interchanges (ramps), and characterized by medians, grade separations at cross roads, and ramp connections for entrance to and exit from the traveled way. An existing non-Interstate segment of state highway may only be designated as a freeway if payment is made to adjacent property owners for the restriction of existing access rights. (3-27-13)
- 38. Frontage Road.** A road auxiliary to and located to the side of the highway for service to abutting properties and adjacent areas for the purpose of controlling access to the highway. (3-30-01)
- 39. Frontage Boundary Line.** A line perpendicular to the highway centerline that begins at the point of intersection of the abutting property line and the highway right-of-way line. (3-30-01)
- 40. Full Control of Access.** Any section of a highway system where access is prohibited except for interchange connections. (3-30-01)
- 41. Government Agency.** As used in these rules, the term includes federal, state, county, city, or local highway jurisdictions. (3-27-13)
- 42. Highway Right-of-Way.** Property used for highway purposes, open to the public, and under the jurisdiction of a government agency. Such property may be owned by the government agency in fee simple or be subject to an easement for highway purposes. (3-27-13)
- 43. Imminent Threat.** Includes major traffic control deficiencies or safety situations that are likely to result in serious injury or loss of life. (3-30-01)
- 44. Interstate Highway.** As identified by federal code, a segment of the Dwight D. Eisenhower National System of Interstate and Defense Highways consisting of an FHWA-approved freeway. (3-27-13)
- 45. Joint-Use Approach.** An approach constructed at a common boundary between adjacent properties that abut the highway. A joint-use approach is equally owned and shared as common access by both property owners. (3-30-01)
- 46. Landscaping.** Any action taken to change the features or appearance of the highway right-of-way or abutting property with plants, soil, rock and related material. (3-30-01)

47. **Loaded Payroll Rate.** A rate of compensation that includes hourly wages plus the associated employer overhead and benefit costs. (3-27-13)
48. **Local Highway Agency.** Any city, county, highway district or other local board or body having authority to enact regulations, resolutions, or ordinances relating to traffic on the highways, highway rights-of-way and streets within their respective jurisdiction. (3-30-01)
49. **Local Road.** A city, county or highway district highway whose primary function is to provide access to adjacent properties. (3-30-01)
50. **Median.** The portion of a divided highway or approach that separates opposing traveled ways. Medians may be raised, flush, or depressed relative to the roadway surface, and may be landscaped or paved. (3-30-01)
51. **Median Opening.** A paved area bisecting opposite directions of a divided roadway that is designed to permit traffic to cross at least one (1) direction of travel. (3-30-01)
52. **MUTCD.** The Manual on Uniform Traffic Control Devices for Streets and Highways, latest edition, as adopted by the Idaho Transportation Board in accordance with Section 49-201(3), Idaho Code. A manual written by the Federal Highway Administration that sets national minimum standards for signing, striping, and traffic control devices. (3-30-01)
53. **Non-Standard Approach.** Any approach that does not meet Department standards. (3-30-01)
54. **Performance Bond.** A statutory bond, issued by a surety company authorized to do business in the state of Idaho, that guarantees performance of work in accordance with permit requirements. (3-30-01)
55. **Permittee.** Person or persons, utility facilities, and other agencies granted permission to encroach within the highway right-of-way for authorized purposes other than normal travel. (3-30-01)
56. **Private Approach.** Every privately owned traveled way that is used for ingress to and egress from the highway right-of-way and an abutting property. (3-30-01)
57. **Property Line Clearance.** The distance measured along the curb line or outside shoulder edge from the frontage boundary line to the nearest edge of the approach width, excluding flares, transitions and radii. (3-30-01)
58. **Public Approach.** Any approach that serves the public without restriction and is maintained by a government agency. (3-27-13)
59. **Public Highway.** Any highway open to public use and maintained by a government agency. (3-27-13)
60. **Public Highway Agency.** The state transportation department, any city, county, highway district, or any other state agency, or any federal or Indian reservation, which has jurisdiction over public highway systems and highway rights-of-way. (3-30-01)
61. **Regional Route.** A state highway that accommodates trips of moderate length with a lower level of mobility than a Statewide Route and that provides moderate access to communities, to include providing mobility for people and freight through and between communities and major activity centers of the region. (3-27-13)
62. **Roadside.** Any area beyond the main traveled way that may or may not be within the highway right-of-way. (3-30-01)
63. **Roadway.** That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of sidewalks, shoulders, berms and other portions of the rights-of-way. (3-30-01)

- 64. Rural.** State highway rights-of-way and right-of-way corridors outside the limits of Urban and Transitional areas. (3-27-13)
- 65. Setback.** The horizontal distance between the highway right-of-way line and permanent fixtures, including but not limited to gas pump islands, signs, display stands and buildings, measured at right angles to the highway centerline. (3-30-01)
- 66. Shoulder.** The portion of the right-of-way contiguous with the traveled way that accommodates stopped vehicles, emergency use, and lateral support of the sub-base, base, and surface courses. (3-27-13)
- 67. Signal Spacing.** The distance between signalized intersections measured from the center of intersection to the center of intersection. (3-30-01)
- 68. Slope.** Slope is expressed as a non-dimensional ratio between vertical and horizontal distance. For side slopes, the vertical component is shown first, then the horizontal. (3-30-01)
- 69. Speed.** The rate of vehicular travel as measured in miles per hour. All speeds used in this document shall be the eighty-fifth percentile speed as determined by an engineering study. (3-27-13)
- 70. State Highway System.** The principal highway corridors in the state, including connections and extensions through cities and roads to every county seat in the state, as approved by the Idaho Transportation Board and officially designated as a state highway. (3-30-01)
- 71. Statewide Route.** A state highway that provides the highest level of mobility and speeds over long distances. Access from a statewide route to communities and major activity centers should be by way of public roads with spacing that supports mobility and speed. (3-27-13)
- 72. Stopping Sight Distance.** The sum of:
- a.** The brake reaction distance, which is the distance traveled by the vehicle from the instant the driver perceives an object necessitating a stop, to the moment the brakes are applied; and (3-27-13)
  - b.** The braking distance, which is the distance the vehicle travels from the moment the brakes are applied until the vehicle comes to a complete stop. (3-27-13)
- 73. Structure.** Includes, but is not limited to, bridges, culverts, siphons, headwalls, retaining walls, buildings and any incidental construction not otherwise defined herein. (3-27-13)
- 74. Subdivision.** A division of real property into three (3) or more separately platted parcels. (3-30-01)
- 75. Temporary Encroachment.** Any encroachment that is not approved as a permanent placement within the highway right-of-way. (3-30-01)
- 76. Traffic.** Pedestrians, bicycles, animals, vehicles, streetcars, buses and other conveyances, either singly or together, that use the highway right-of-way for the purpose of travel. (3-30-01)
- 77. Traffic Control Device.** Any marking or device whether manually, electronically, or mechanically operated, placed or erected by an authority of a government agency or official having jurisdiction, for the purpose of regulating, warning or guiding traffic. (3-27-13)
- 78. Traffic Impact Study.** A comprehensive analysis of the anticipated transportation network conditions with and without an applicant's proposed new or modified access, including an analysis of mitigation measures. (3-27-13)
- 79. Transitional.** State highway rights-of-way and right-of-way corridors within the area of city impact of any incorporated city, or areas designated as an area of city impact by city or county comprehensive plans. (3-27-13)

- 80. Traveled Way.** The portion of the roadway for the movement of vehicles, exclusive of shoulders. (3-30-01)
- 81. Travel Lane.** That portion of the traveled way designated for use by a single line of vehicles. (3-30-01)
- 82. Trenching.** A method in which access is gained by excavation from ground level to the required underground depth for the installation, maintenance, removal, or inspection of a cable, casing, conduit or pipe. The excavation is then back filled with approved material and the surface is then returned to a condition specified by the Department. (3-27-13)
- 83. Turnouts.** Roadside areas immediately adjacent to highways which may be utilized by vehicles for purposes of short-term parking or turning. They are extensions of the traveled way. (3-27-13)
- 84. Unauthorized Encroachment.** Any encroachment that has been placed, modified, or maintained, or removed within the highway right-of-way without authorization by the Department. (3-27-13)
- 85. Urban.** State highway rights-of-way and right-of-way corridors within the limits of any incorporated city. (3-27-13)
- 86. Utility Facility.** All privately, publicly or cooperatively owned systems used for the production, transmission, or distribution of communications, cable television, power, electricity, light, heat, petroleum products, ore, water, steam, waste, irrigation, storm water not connected with highway drainage, and other similar items, including communication towers, guy wires, fire and police signal systems, and street lighting systems, that directly or indirectly serve the public or comprise part of the distribution systems which directly or indirectly serve the public. (3-30-01)
- 87. Utility Locating Service.** Any locally or regionally recognized service that locates and maintains records of existing utility facilities. (3-30-01)
- 88. Vehicle.** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon rails or tracks. (3-30-01)
- 89. Vision Triangle.** An area delineated by extending perpendicular lines along the face of curb or edge of pavement from their point of intersection forty (40) feet in either direction and by a height between three (3) feet and ten (10) feet above the existing centerline highway elevation. (3-27-13)
- 90. Volume.** The number of vehicles estimated to use a certain type of travel lane during a twelve-month period. A highway with “high” volumes is at or near capacity; a highway with “medium” volumes is at or near fifty percent (50%) of capacity. (3-27-13)
- 91. Warrant.** An evaluation of need based on an engineering study. (3-30-01)
- 92. Working Day.** Any day except for Saturday, Sunday and any holiday as defined in Section 67-5302(15), Idaho Code. (3-27-13)
- 011. -- 099. (RESERVED)**
- 100. GENERAL.**
- 01. Access Control.** (3-30-01)
- a.** The Department shall retain the authority to issue all encroachment permits on the State Highway System. (3-27-13)
- b.** No change may be made to the control of access on any Interstate Highway without the approval of



the Idaho Transportation Board and FHWA. (3-27-13)

**02. Safety Requirements.** (3-30-01)

**a.** It is the permittee’s responsibility to provide for safe, efficient passage and protection of vehicles, pedestrians, and workers during any permitted work within the highway right-of-way. (3-30-01)

**b.** The permittee shall submit, for Department approval, a traffic control plan for the installation, maintenance, or removal of any state highway right-of-way encroachment. The permittee shall provide advance notification to the Department prior to implementing any traffic control. (3-30-01)

**c.** During the progress of the work, barricades, signs and other traffic control devices shall be erected and maintained by the permittee in conformance with the current “Manual on Uniform Traffic Control Devices.” The permittee shall be required to meet the minimum requirements of the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD), as adopted by the Department. (3-30-01)

**d.** All flaggers working on the State Highway System shall be certified in or recognized by the state of Idaho. They shall carry on their person a current flagger identification card that is recognized by the state of Idaho. All traffic control devices used on the State Highway System shall comply with current FHWA crash criteria. (3-30-01)

**e.** When required, a striping plan for the placement of temporary and permanent pavement markings shall accompany the approved permit to use the right-of-way. Materials, placement, and removal of all pavement markings shall conform to current Department specifications and standards. (3-30-01)

**03. Maintenance of Encroachments.** Once an encroachment has been constructed by the permittee to Department standards, maintenance of the encroachment, unless otherwise provided, shall be as follows: (3-30-01)

**a.** Paved public approach - State maintains to the right-of-way line. (12-26-90)

**b.** Paved private approach - State maintains to end of radii, permittee maintains beyond the radii. (12-26-90)

**c.** Gravel public approach. State installs an asphalt wedge sufficient to protect the roadway pavement edge (three (3) to six (6) feet back from the edge of road for the width of the approach). It is desirable to pave the approach to the right-of-way line when the road is reconstructed. State maintains to the right-of-way line. (3-30-01)

**d.** Gravel private approach. The permittee maintains beyond the wedge. (3-30-01)

**e.** Gravel turnouts. State maintains turnouts, other than mailbox turnouts, to the right-of-way line. The permittee maintains mailbox turnouts. (3-30-01)

**f.** Maintenance of all other encroachments shall be the responsibility of the permittee. (3-30-01)

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

**200. APPLICATIONS AND PERMITS.**

**01. Required.** To help preserve the highways as constructed and provide responsible growth where allowed, any individual, business, or other entity planning to add, modify, change use, relocate, maintain, or remove an encroachment on the state highway or use highway right-of-way for any purpose other than normal travel, shall obtain a permit to use state highway right-of-way. Encroachment permits approved by the Department are required for private and public approaches (driveways and streets), utilities and other miscellaneous encroachments. (3-27-13)

**02. Work Prior to Approval.** No activities shall be allowed on State highway rights-of-way until an approved permit has been issued by the Department or a delegated local highway agency. In an emergency, that affects highway operations and motorist safety, approval may be given by the Department or a delegated highway

agency in advance of processing the permit. (3-30-01)

**03. Local Highway Agency Authority.** The department may delegate authority to a local highway agency to issue permits to use state highway rights-of-way if adequate local ordinances are in place and are enforceable. The Department shall retain final approval for all permits issued by a local highway agency on the State Highway System. (3-15-02)

**04. Administration.** Permitting process shall be administered by the Department or their delegated representative, within the representative's respective jurisdiction. Department District offices are located in Coeur d'Alene, Lewiston, Boise, Shoshone, Pocatello and Rigby. (3-27-13)

**05. Application Forms.** All applications to use State highway right-of-way shall be made on approved Department forms. (3-30-01)

**06. Applicant to Be Informed.** Applicants shall be informed of Department policies and regulations concerning encroachments. (3-27-13)

**07. Payment for Impacted Highway Features.** Applicants shall pay for any changes or adjustments of highway features or fixtures brought about by actions, operations or requirements caused by the applicant. (3-27-13)

**08. Encroachment Conflicts.** Conflicts between proposed encroachments and highway maintenance or construction projects, utilities or other encroachments shall be resolved before an application is approved. (3-27-13)

**09. Review Process.** The review process shall commence on the day the applicant submits the signed application and makes payment of the initial application fee(s). If the Department determines there is insufficient documentation to process the application, the process will be placed on hold until such documentation has been received. All applications for encroachment permits shall be reviewed and evaluated for current access control requirements, deed restrictions, safety and capacity requirements, design and location standards, or an approved variance of these standards, environmental impacts, location conflicts, long-range planning goals, and the need for an appraisal. A time table for the review process is available at the Idaho Transportation Department Headquarters Office or any District Office. (3-27-13)

**10. Department Held Harmless.** In accepting an approved permit, the permittee, their successors and assigns, shall agree to hold harmless and defend, regardless of outcome, the state from the expenses of and against all suits or claims, including costs, expenses and attorney fees that may be incurred by reason of any act or omission, neglect or misconduct of the permittee or its contractor in the design, construction, maintenance or operation of the encroachment. (3-30-01)

**11. Permit Requirements.** All permits shall specify approach location and use, and be accompanied by approved traffic control plans, design details and specifications that address dust control, site reclamation, environmental protection and work site safety. The applicant shall be required to submit construction plans stamped by an engineer licensed in the state of Idaho to the Department for approval. (3-27-13)

**12. Void Application.** Once an application is submitted, if the permitting process is not completed within one (1) year as a result of inactivity on the applicant's part, the application shall be considered void. (3-30-01)

**13. Denial of Application.** Applications for encroachments not allowed shall be verbally denied. If the applicant insists on proceeding with the application, the non-refundable fee shall be accepted and a permit denial issued by certified letter. Upon receipt of the denial letter, the applicant can appeal the Department's action. (3-30-01)

## **201. PERMIT COMPLIANCE AND EXPIRATION.**

**01. Permitted Work.** If work does not begin immediately, the permittee shall notify the Department or local highway agency five (5) working days prior to commencing such work. Local highway agency shall promptly

notify the Department, when applicable. (3-30-01)

**02. Work Site Documents.** The permittee or contractor for the permittee, shall maintain a copy of the approved permit, all special provisions and any related documents, at the work site while work is in progress. (3-30-01)

**03. Completion of Work.** All permitted work shall be completed and available for final inspection within thirty (30) days after construction begins, unless otherwise stated in the special provisions of the permit. If the permitted work is not completed within one (1) year of permit issuance, the permit shall be considered void. At the discretion of the Department, a one-time extension not to exceed six (6) months may be granted if requested in writing by the permittee prior to permit expiration. New applications shall be required for additional work following permit expiration. (3-30-01)

**04. Temporary Encroachments.** Temporary encroachment permits shall have an effective time period not to exceed one (1) calendar year and shall be removed within ten (10) days following permit expiration. (3-30-01)

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

**300. GENERAL REGULATIONS FOR APPROACHES.**

**01. Required.** All new or additional approaches, or the modification in design or use, relocation or removal of existing approaches require an approved State highway right-of-way use permit and shall meet all access control requirements that correspond to the state highway being affected. (3-27-13)

**02. General.** Requests for approaches shall be reviewed and considered for approval based on the needs of the total development, regardless of the number of individual parcels it contains. (3-30-01)

**03. Joint-Use Approach.** Only an owner of property abutting the state highway right-of-way, or their designated representative, can apply for access. Applications for a joint-use approach that serves two (2) or more abutting properties sharing common boundary lines shall be accompanied by a legal recorded joint-use access agreement and shall be signed by all deeded owners or authorized representatives. (3-30-01)

**04. Applicable Standards.** The location, design, and construction of all approaches shall comply with Department standards. Information regarding applicable standards is available at Department headquarters and all District offices listed in Subsection 003.01. (3-30-01)

**05. Approach Locations.** Approaches shall be located where the highway alignment and profile meet approved geometric standards, where they do not create undue interference with or hazard to the free movement of normal highway or pedestrian traffic, and where they do not restrict or interfere with the placement or proper function of traffic control signs, signals, lighting or other devices. (3-30-01)

**06. Denial of Approach Application.** Failure to comply with these requirements may be sufficient cause for the Department to deny an approach application, prohibit specific approach usage, or remove an existing approach. (3-30-01)

**07. New Approaches in Highway Construction.** Applications for an encroachment located within a state highway construction project shall be processed by the Department. (3-27-13)

**08. Modification of Approaches by Department.** The Department reserves the right to make any modifications, additions, repairs, relocations, or removals to any approach or its appurtenances within the highway right-of-way, when necessary for maintenance, rehabilitation, reconstruction or relocation of the highway and/or to provide proper protection of life and property on, or adjacent to, the highway. (3-30-01)

**09. Modification of Approaches by Permittee.** Modifications of approach use, construction, or design shall include but not be limited to width, grade, surface type, landscaping, and drainage. Such modifications by the permittee require Department approval. (3-27-13)

301. -- 399. (RESERVED)

**400. LOCATION AND DESIGN STANDARDS FOR APPROACHES.**

**01. Required.** Location, design, construction and operations of all approaches shall comply with current Department geometric standards and design principles. (3-30-01)

**02. Guidelines.** The following access management guidelines shall be considered on all approach applications: (3-30-01)

**a.** Design approaches for current and future property access requirements; and (3-30-01)

**b.** Reduce conflicts associated access points through the application of channelization, auxiliary lanes, joint-use approaches, frontage and other local roads, restricted on-street parking and off-street traffic circulation. (3-30-01)

**03. Signal and Approach Spacing.** In order to maintain system capacity, safety and efficiency, maximize signal progression and minimize delays to the traveling public, all approaches and signals shall be spaced in accordance with the following standards: (3-27-13)

**a.** All traffic signal locations shall meet Department signal warrant requirements and a signal operational analysis; (3-30-01)

**b.** Location preference shall be given to State highways that meet or may be reasonably expected to meet signal warrants within five (5) years; and (3-30-01)

**c.** Minimum recommended distances between approaches and signals are as follows:

TABLE 1 – ACCESS SPACING*						
HIGHWAY TYPE	AREA TYPE	Signalized Road Spacing	Public Road Spacing (A)	Driveway Distance Upstream From Public Road Intersection (B)	Driveway Distance Downstream From Unsignalized Public Road Intersection (C)	Distance Between Unsignalized Accesses Other Than Public Roads (D)
Interstate	All	Accessible only by interchanges (ramps) and requires approval by the Board and Federal Highway Administration.				
Freeway	All	Accessible only by interchanges (ramps).				
Expressway	All	Accessible only at locations specified by the Department.				
Statewide Route	Rural	5,280 ft	5,280 ft	1,000 ft	650 ft	650 ft
	Transitional	5,280 ft	2,640 ft	760 ft	500 ft	500 ft
	Urban >35 mph	2,640 ft	1,320 ft	790 ft	500 ft	500 ft
	Urban ≤35 mph	2,640 ft	1,320 ft	790 ft	250 ft**	250 ft**

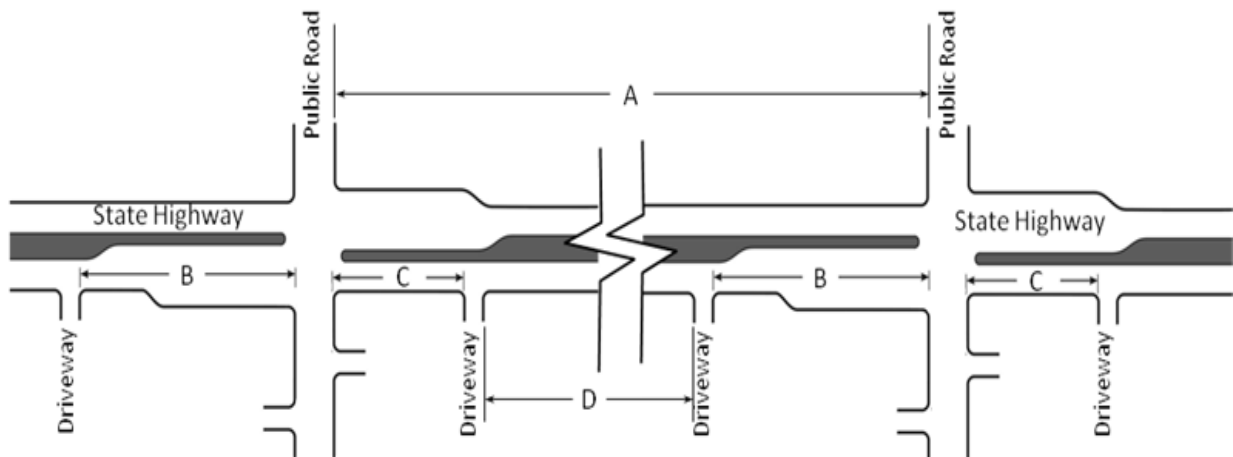
TABLE 1 – ACCESS SPACING*						
HIGHWAY TYPE	AREA TYPE	Signalized Road Spacing	Public Road Spacing (A)	Driveway Distance Upstream From Public Road Intersection (B)	Driveway Distance Downstream From Unsignalized Public Road Intersection (C)	Distance Between Unsignalized Accesses Other Than Public Roads (D)
Regional Route	Rural	5,280 ft	2,640 ft	1,000 ft	650 ft	650 ft
	Transitional	2,640 ft	1,320 ft	690 ft	360 ft**	360 ft**
	Urban >35 mph	2,640 ft	660 ft	660 ft	360 ft**	360 ft**
	Urban ≤35 mph	2,640 ft	660 ft	660 ft	250 ft**	250 ft**
District Route	Rural	2,640 ft	1,320 ft	760 ft	500 ft	500 ft
	Transitional	2,640 ft	660 ft	660 ft	360 ft**	360 ft**
	Urban >35 mph	1,320 ft	660 ft	660 ft <td 360 ft**	360 ft**	
	Urban ≤35 mph	1,320 ft	660 ft	660 ft	250 ft**	250 ft**

\*Distances in table are minimums based on optimal operational and safety conditions such as adequate sight distance and level grade. Definitions of spacing designated by (A), (B), (C), and (D) are represented on Figure 1.

\*\* Where the public road intersection or private access intersection is signalized, the distances in the table are for driveways restricted to right-in/right-out movements only. For unrestricted driveways the minimum distance shall be 500 feet from a signalized intersection.

(3-27-13)

Figure 1:



(3-27-13)

d. The District Engineer shall have the authority to deny an encroachment permit or require the applicant to provide a Traffic Impact Study when an on-site review indicates that the optimal conditions (such as sight

distance and queue length) assumed in Table 1 do not exist, and that operational or safety problems may result from the encroachment spacing. (3-27-13)

**e.** The District Engineer shall have the authority to approve a decrease in the minimum access spacing distances set forth in Table 1, provided that the basis for any exception is justified and documented. The basis for the exception may include overriding economic opportunity considerations. For any exception that would result in a decrease in access spacing of more than ten percent (10%) of the distances set forth in Table 1, a Traffic Impact Study will be required in order to determine whether auxiliary lanes or other appropriate mitigation must be included in the permit's conditions. (3-27-13)

**f.** Unless the requirement is waived by the District Engineer, a Traffic Impact Study shall also be required when a new or expanded development seeks direct access to a state highway, and at full build out will generate one hundred (100) or more new trips during the peak hour, the new volume of trips will equal or exceed one thousand (1000) vehicles per day, or the new vehicle volume will result from development that equals or exceeds the threshold values in Table 2. If the District Engineer waives the requirement for a Traffic Impact Study, the basis for such waiver shall be justified and documented. (3-27-13)

**g.** When required, the Traffic Impact Study shall document access needs and impacts and whether any highway modifications are necessary to accommodate the new traffic volumes generated by the development. Such modifications could include, for example, turn lanes, additional through lanes, acceleration or deceleration lanes, medians, traffic signals, removal and/or consolidation of existing approaches, approaches limited to right-in/right-out access only, etc. (3-27-13)

**h.** If a District Engineer denies an encroachment permit application and the denial is appealed to the board, the board or its delegate shall have the authority to approve exceptions to the access and signal spacing distances in Table 1 if, in the judgment of the board, overriding economic considerations cause the exceptions to be in the best interests of the public. (3-27-13)

Table 2	
LAND USE TYPE	THRESHOLD VALUE
Residential	100 Dwelling Units
Retail	35,000 square feet
Office	50,000 square feet
Industrial	70,000 square feet
Lodging	100 rooms
School (K-12)	All (Sections 67-6508 & 67-6519, Idaho Code)

(3-27-13)

**04. Corner Clearance.** (3-30-01)

**a.** Approaches should be located as far as practical from intersections: to preserve visibility at the intersection, to permit safe vehicle movement, and to accommodate the installation of traffic signs, signals and lighting where required. (3-30-01)

**b.** Approach transitions or flares shall not encroach upon curbs or pavement edges forming the corner radii of the intersection. (3-30-01)

**c.** Minimum corner clearances between signalized and unsignalized urban and rural intersections shall comply with current Department standards. (3-30-01)

**05. Approach Alignment.** Whenever possible, all new or relocated approaches shall intersect the state highway at right angles and shall be aligned on centerline with existing approaches to facilitate highway safety and the development and use of turn lanes and/or signals. Approach skew angles shall be in conformance with current Department standards. (3-30-01)

**06. Width and Radius.** (3-30-01)

**a.** An approach shall be wide enough to properly serve the anticipated type and volume of traffic. Minimum widths should be used only when space limitations apply. (3-30-01)

**b.** An approach that is adjacent to a public alley may include the alley as part of the approach if approved by the local jurisdiction, however, the width of the combined approach shall not exceed forty (40) feet. (3-27-13)

**c.** Commercial approaches with volumes exceeding fifty (50) vehicles per hour during a total of any four (4) hours per day should be designed to public road standards. (3-30-01)

**d.** A Boulevard Approach may be required to improve operation and/or aesthetics of commercial approaches and some public highways, when warranted, by a combination of vehicle length and higher traffic volumes. The approach shall be designed to serve the traffic with a right-turn lane, a left-turn lane, a median, and one (1) or more entrance lanes. (3-30-01)

**e.** Minimum and maximum recommended approach widths and radii are as follows:

APPROACH USE	< 35 MPH		≥ 35 MPH		RADII	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Single Residential, Farmyard, Field	12ft	40ft	20ft	40ft	20ft	30ft
Multiple Residential	28ft	40ft	28ft	40ft	20ft	30ft
Commercial (One-Way)	15ft	30ft	20ft	30ft	30ft	40ft
Commercial (Two-Way)	25ft	40ft	25ft	40ft	30ft	40ft
Boulevard Approach	84ft	84ft	84ft	84ft	Contact Department	
Joint-Use Residential/Farm	25ft	40ft	25ft	40ft	20ft	30ft
Joint-Use Commercial	12ft	40ft	20ft	40ft	30ft	40ft
Public Highways	28ft	N/A	28ft	N/A	30ft	50ft

(3-27-13)

**07. Property Line Clearance.** (3-30-01)

**a.** In curbed sections, there shall be a minimum property line clearance of six (6) feet to accommodate approach transitions. Approaches shall be constructed so that all approach flares and any extensions of the approach remain within applicant's property. (3-27-13)

**b.** In rural or uncurbed sections, property line clearances shall be equal to approach radius. Approaches shall be constructed so that all approach radii remain within applicant's property. (3-30-01)

**c.** Approach transitions or radii may be allowed to abut the adjacent property line when required for proper utilization of property. Joint-use approaches shall be required whenever property frontage is insufficient to include full width of the approach, including both radii. (3-30-01)

**08. Setback.** (3-30-01)

**a.** Improvements intended to serve patrons on private property adjacent to state highway right-of-way shall be setback from the highway right-of-way line so that stopping, standing, parking or maneuvering of vehicles on the right-of-way is not necessary. A minimum setback of fourteen (14) feet from state highway right-of-way line is recommended, unless a greater minimum is established by an engineering study. When an ordinance requires a certain number of parking spaces per square footage of building, the parking spaces shall not be included within state highway right-of-way. (3-27-13)

**b.** Traffic movements into and out of a business shall be designed, whenever possible, to utilize existing local roads. Existing approaches along traveled way should serve as exits only from the business onto the state highway. Entrance to the property should be made from a local road. (3-30-01)

**09. Sight Distance.** Any encroachment, including but not limited to hedges, shrubbery, fences, walls, or other sight obstructions of any nature, that constitutes a traffic hazard within the "vision triangle" of vehicle operators at the intersection of roads with other roads, private approaches, alleys, bike or pedestrian paths, or railroad crossings shall be removed. (3-30-01)

**10. Transitions and Flares.** (3-30-01)

**a.** In curb and gutter sections, the transition connecting the edge of the approach to the curb shall meet minimum Department standards. (3-30-01)

**b.** In sections not having a curb and gutter, approach flares should connect the outside edge of the approach to the outside edge of the roadway shoulders and shall meet minimum Department standards. The approach flare tangent distance should not exceed twenty (20) feet unless a larger radius is warranted by an engineering study. (3-27-13)

**c.** The distance between approaches shall be such that the curb approach transition or radii of the one (1) approach does not encroach upon the transition or radii of the adjacent approach. (3-30-01)

**11. Grade.** (3-30-01)

**a.** If the maximum allowable slope is not great enough to bring the approach to the level of the sidewalk or back of curb, a depressed sidewalk should be installed, when required. If sidewalks exist, the connection between the original sidewalk and the depressed sidewalk shall be made through a transition area with a slope no steeper than twelve horizontal to one vertical (12:1) from the longitudinal grade of the original sidewalk. All new curbs or sidewalks should be constructed to the line and grade of the existing curb or sidewalk with every effort to construct a sidewalk that is uniformly graded and free of dips. (3-27-13)

**b.** To accommodate emergency service vehicles, the Department recommends a maximum approach grade of plus or minus ten percent ( $\pm 10\%$ ). (3-30-01)

**12. Border Area.** (3-30-01)

**a.** Border area work (including grading, seeding and landscaping) shall insure that adequate sight distance, proper drainage, desirable slopes for maintenance operations, and a pleasing appearance are provided. The border area shall be free of encroachments and designed as needed to prevent vehicular use through the incorporation of appropriate methods such as ditching, special grading, use of concrete or bituminous curbs, fencing, guard rail, and



guide posts. The design or devices should not impair adequate sight distance or constitute a hazard to pedestrians, bicycles, or vehicles. (3-30-01)

**b.** The maximum slope beyond the outside edge of shoulder, back of curb, or back of sidewalk to the right-of-way line shall meet minimum Department standards. The creation of ponds, pools, or drainage/evaporation swales within the highway right-of-way shall be prohibited. (3-30-01)

**13. Drainage.** (3-30-01)

**a.** All approaches shall be graded so that private properties abutting the highway right-of-way do not drain onto the traveled way, do not impair the drainage within the right-of-way, alter the stability of the roadway subgrade or materially alter the drainage of areas adjacent to the right-of-way. Post-development drainage flows shall not exceed predevelopment drainage flows. (3-30-01)

**b.** Culverts and drop inlets shall be installed where required and shall be the type and size specified by the Department. Where the border area is regraded, landscaped or reclaimed (seeded), it shall have sufficient slope, ditches, culverts, and drop inlets for adequate drainage. Slopes, where practical, should be a six-horizontal-to-one vertical (6:1) maximum. (3-27-13)

**14. Base and Surfacing.** (3-30-01)

**a.** It shall be the responsibility of the permittee to supply, place and properly compact the approach fill and base material. All base and surfacing materials and compaction requirements shall meet minimum Department design and construction standards. (3-30-01)

**b.** All rural private, commercial and public approaches shall be paved to the right-of-way line or to the back of the approach radius. Farmyard and field gravel approaches that are occasionally used shall be paved a minimum of five (5) feet from the edge of pavement. (3-27-13)

**c.** In curb and gutter areas, approaches shall be paved to the right-of-way line. (3-30-01)

**401. MEDIANS.**

**01. Median Placement.** The placement of medians shall meet the following considerations: (3-30-01)

**a.** Where a traffic engineering study indicates that medians would be beneficial to control access, maintain street capacity, and improve traffic safety. (3-30-01)

**b.** When medians are selected, non-traversable medians are the preferred median type; however, traversable medians in urban areas may be considered to accommodate emergency vehicles. (3-30-01)

**c.** Pedestrian/bicycle safety shall be given consideration in the choice and design of medians in areas that are frequently used by pedestrians/bicycles. (3-30-01)

**d.** construction requirements for all new or modified public approaches to the state highway right-of-way, including private approaches to subdivisions and businesses, shall be reviewed for the need to place medians on the state highway. (3-30-01)

**e.** Channelization formed by raised curbs, solid painted islands, left turn lanes, or other traffic control installations may be required to create a mandatory right-in/right-out and/or left-in/left-out approach condition. (3-30-01)

**02. Median Openings.** Median openings shall be as follows: (3-30-01)

**a.** Placed on multi-lane state highways at all signalized intersections, at locations which currently meet the criteria for a signal warrant and fulfill traffic signal coordination requirements, at locations that are anticipated to meet future traffic signal considerations, and at locations where there will be no significant reduction in

safety or operational efficiency. (3-30-01)

b. Designed with a left turn lane and sufficient storage for left turning traffic. (3-30-01)

c. Median openings allowing U-turns shall be provided only at locations having sufficient roadway width. (3-30-01)

**402. AUXILIARY LANES.**

Review Required. Reviews shall be conducted to determine the need to provide turn lanes, deceleration lanes and acceleration lanes on the state highway prior to issuing an approach permit. Consideration of auxiliary lanes shall meet the following conditions: (3-30-01)

**01. Traffic Engineering Study.** A traffic engineering study shall be made that considers highway operating speed, traffic volumes, projected turning movement volumes, availability of passing opportunities, sight distance, and collision history. (3-27-13)

**02. Auxiliary Lanes to Enhance Roadside Business.** Auxiliary lanes shall not be constructed to enhance a new roadside business, unless the applicant is willing to pay the full cost. (3-30-01)

**03. Auxiliary Lanes Required by Planned Development.** Auxiliary lanes required as a result of a planned development, shall be paid for by the developer. When the need for an auxiliary lane exists prior to an application for a planned development, the developer may not be required to pay for the lane unless such construction precedes the Department's construction schedule. (3-30-01)

**403. -- 499. (RESERVED)**

**500. LOCATION AND DESIGN STANDARDS FOR UTILITIES.**

**01. Approved Permit Required.** An approved right-of-way encroachment permit shall be required for all utility encroachments, including new utility installation and the relocation, maintenance, modification, or removal of existing utility facilities prior to the initiation of any work within the state highway right-of-way. (3-30-01)

**02. Utility Locations.** Final utility locations shall be identified on the appropriate roadway and bridge plans. (3-30-01)

**03. Interstate Highways.** As addressed in the 1996 Telecommunications Act, longitudinal placement of telecommunication utilities in any Interstate right-of-way shall require a permit approved by the Department for the installation of utilities. Longitudinal placement of all other utilities in Interstate right-of-way shall require a utility permit approved by both the Department and the FHWA. (3-27-13)

**04. Utility Maintenance and Emergency Repair.** Right-of-way encroachment permits, approved annually by the Department, shall be required for all maintenance or emergency repairs of utility facilities. The utility shall notify the Department in advance of any work that affects the traveling public. (3-15-02)

**05. Conduits Under the Roadway.** (12-26-90)

a. Conduits crossing under highways that carry utility structures including, but not limited to, water, sewage, chemicals, electrical wire, and communications cables, shall be installed by jacking, driving or boring unless trenching can be justified. Acceptable justification would only be poor soil conditions, such as rock or boulders, inadequate room for a boring pit, or conflicts with other utility lines which cannot be located accurately (gas lines, multiple telephone conduits). If gravel or boulders prevent boring or jacking on the first attempt, at least two (2) other documented attempts should be made at different locations before contacting the District about an alternate installation method, unless the utility can provide documentation from a qualified agency or engineer that indicates the strata is not conducive to boring, driving or jacking. Normally installation of conduit twenty-four (24) inches or less outside diameter should be attempted by jacking, driving or boring before consideration of trenching as an alternative. (3-27-13)

**b.** The applicant is required to submit for review and approval, a set of construction plans stamped by an engineer licensed in the state of Idaho. The plans shall show all details on casing, conduits, bulkheads and placement, vertical and horizontal dimensions of the pit and shoring, method of installing the conduit, drainage, void filling, and traffic control devices. Sluicing or jetting shall not be allowed. If required by the engineer, casings should be installed from highway right-of-way line to highway right-of-way line to allow for servicing of the utility facility with minimal disruption to traffic flows. Casings should be installed wherever feasible to allow for placement of multiple conduits. (3-15-02)

**c.** Conduits under interstate highways shall not be installed by cutting through the pavement under any circumstance. (3-30-01)

**06. Conduits Attached to Structure.** Conduits attached to any structure shall meet the following requirements: (3-30-01)

**a.** A set of construction plans showing all details and calculations of a crossing or proposed attachments, stamped by an engineer licensed in the state of Idaho, shall be submitted to the Department for review and approval at the time of permit application. A copy of the existing structure plans shall also be submitted that are marked to show the proposed structure modifications. (3-30-01)

**b.** Reinforcement shall be located prior to the placement of threaded inserts to suspend utilities using a method approved by the Department. (3-30-01)

**c.** All attaching hardware shall be galvanized or coated as directed by the Department. (3-30-01)

**d.** Bolts for the attachment clamps shall be a minimum of one-half (1/2) inche in diameter. (3-27-13)

**e.** Slip joints shall be installed as directed by the Department. (3-30-01)

**f.** Drilling of any bridge structural element shall be prohibited without approval from the Department. (3-30-01)

**g.** Utilities shall be attached to bridges in an interior bay, unless interior attachment is not practical due to the bridge diaphragm or end beam construction. (3-30-01)

**h.** Placing brackets along or around the structure rail is prohibited. (3-30-01)

**i.** The installing utility shall relinquish exclusive rights to future use of a hanger system, once installed. However, the responsibility for required maintenance shall remain with the installing utility until the hangar system is placed into a joint-use system. At that time, the responsibility for maintenance shall become a shared responsibility. (3-30-01)

**j.** A set of “as-built” plans for all conduit or utility crossings and structure attachments shall be submitted to the Department and the local utility locating service with all details of construction within thirty (30) days of the work completion. All “as-built” plans are required to be stamped by an engineer licensed in the state of Idaho. (3-30-01)

**501. -- 599. (RESERVED)**

**600. LOCATION AND DESIGN STANDARDS FOR OTHER ENCROACHMENTS.**

**01. Approved Permit Required.** An approved right-of-way encroachment permit shall be required for all portable objects or signs, memorials, urban improvements, landscaping, farming, irrigation or drainage, mailbox stands or turnouts, recreational parking facilities, park-and-ride lots, school bus turnouts, or structures within the state highway right-of-way other than those authorized or installed by the Department, or those which the government entity deems necessary for regulating, warning, and guiding of traffic. (3-30-01)

**02. Benches, Planters, and Other Urban Structures.** Structures, including protrusions and

overhangs, shall be a minimum of eighteen (18) inches behind the face of curb. When a structure is within a sidewalk area, at least four (4) feet of unobstructed space shall be available for pedestrians. (3-27-13)

**03. Overhanging Displays, Canopies and Marquees.** In a curb section, encroachments shall not extend closer than eighteen (18) inches behind face of curb. In a non-curb section, encroachments supported by a building shall not extend more than twelve (12) inches into right-of-way. Signs or displays shall be no lower than twelve (12) feet above the sidewalk or ground level. Canopies and marquees shall be no lower than eight (8) feet. (3-27-13)

**04. Landscaping, Farming and Associated Irrigation.** Repair of landscaping in the state highway right-of-way shall be the responsibility of the permittee, and the Department will not be responsible for, or participate in, any repair or maintenance costs. All requests for landscaping, farming and irrigation shall require a review of current access control records for restrictive covenants. Applications may be approved provided the following conditions are met: (3-30-01)

**a.** Landscaping, farming, and irrigation systems shall maintain the structural integrity of the state highway right-of-way. No undercutting of the present highway fill and ballast section nor shall access to a state highway from unprotected bare soil be allowed. (3-27-13)

**b.** Unless otherwise specified, the degree of landscaping will be limited to what is necessary to insure that the appearance of the state highway right-of-way is compatible with the appearance of the surrounding area and shall not interfere with public safety and overall maintenance operations. (3-30-01)

**c.** Landscaping, farming, and irrigation systems shall not disturb, obstruct, or add to the normal drainage patterns of the state highway right-of-way. No new ditches shall be constructed without prior approval. (3-30-01)

**d.** Landscaping, farming, and irrigation systems shall not interfere with utility installations, removals, or operations. (3-30-01)

**e.** Provisions shall be established for the responsibility of future maintenance. (3-30-01)

**f.** Only planting of forage plants, grasses, flowers, and shrubs with a mature height not to exceed three (3) feet will be allowed within the clear zone of the state highway right-of-way. Type and size of grasses, flowers, and shrubs will be determined by the Department. (3-27-13)

**g.** No trees shall be allowed within the clear zone of the state highway right-of-way. (3-15-02)

**h.** All work within the highway right-of-way shall be required to return the right-of-way to either original condition or to the requirements of the encroachment permit as approved by the Department. (3-27-13)

**i.** Irrigation systems shall be no closer than five (5) feet from the pavement edge and shall be adjusted so water does not cover any portion of the highway pavement. (3-27-13)

**j.** No grading, excavation or other ground disturbing activities will be performed during rainy periods. If work cannot be avoided during rainy periods, the permittee will install check dams or other approved device(s) or structure(s) in drainage channels and provide a sediment retention basin to avoid discharging sediment containing runoff into the drainage system, or any wetlands, or water bodies (streams, rivers, lakes and ponds). No work shall be performed in or adjacent to any wetland or water body without providing the Department with copies of the appropriate permits from the Army Corps of Engineers, Idaho Department of Water Resources, and the Idaho Division of Environmental Quality. (3-30-01)

**k.** All areas within the state highway right-of-way disturbed by construction shall be returned to its original condition and reclaimed (re-seeded, fertilized and mulched) as directed by the Department or delegated local highway agency. (3-30-01)

**l.** Appropriate best management practices to temporarily control erosion and resulting sediment shall

be used. Typical soil surface protection practices include erosion control blankets, taced mulches of straw, wood fiber, paper fiber, soil amendments, or rock mulch. Typical sediment control practices may include silt fences, fiber wattles, rock check dams, sediment basins/ponds, inlet culvert risers, and inlet rock filters. For further information on best management practices, contact the Department. (3-30-01)

**m.** Travel lanes shall be kept reasonably free of dirt, rocks and other debris resulting from construction or maintenance of landscaping, farming, or irrigation. (3-30-01)

**05. Recreational Parking and Park-and-Ride Lots.** (3-30-01)

**a.** Parking areas shall be designed to safely accommodate an adequate number of parking spaces as determined by the Department. (3-30-01)

**b.** Access points shall be located so that adequate sight distance is maintained for the safety of approaching traffic and so that minimal interference with the normal flow of traffic on the traveled way results. (3-30-01)

**c.** Approaches shall be constructed in accordance with Department standards. (3-15-02)

**d.** Installation of fencing and delineation should be considered to restrict ingress and egress locations and widths. (3-30-01)

**e.** Unrestricted drainage shall be provided and shall comply with Department standards. (3-15-02)

**f.** Construction and maintenance of parking areas, including snow removal shall be the responsibility of the permittee. (3-30-01)

**06. Mailbox Turnouts.** (3-30-01)

**a.** Mailbox turnouts in rural areas may be combined with an adjacent approach or may be independent of the approach. For safety reasons, the mail carrier should be able to stop out of the traveled way whenever possible. The applicant should be required to construct a mailbox turnout at the same time a mailbox is installed. (3-30-01)

**b.** Mailbox turnouts and mailbox supports shall be constructed in accordance with Department standards. The box-to-post attachments shall resist separation when struck by a vehicle. No massive metal, concrete, stone or other hazardous supports shall be allowed. Owners of mailboxes that do not meet minimum installation requirements shall be notified that correction is required. (3-15-02)

**07. School Bus Turnouts.** (3-30-01)

**a.** School bus turnouts shall be constructed with sufficient length and width to accommodate bus length and turning maneuvers as determined by the Department. (3-30-01)

**b.** Turnouts shall be located so adequate sight distance is maintained for the safety of approaching traffic and so that minimal interference with the normal flow of traffic on the traveled way results. (3-30-01)

**c.** All permitted school bus turnouts shall include approved advance warning signs installed at Department expense. (3-30-01)

**601. -- 699. (RESERVED)**

**700. APPLICATION FEES.**

**01. Fee Administration.** Fees for applications for permits shall be based on the Department's cost to produce the permit and administer the program. Fees for permits are not refundable in the event of denial of the permit or in the event the permittee fails to comply with the permit. Applications shall not be processed until all applicable permit fees are received. (3-13-02)

**02. Fee Schedule.** The permit application fees shall be as follows: (3-13-02)

**a.** Approaches:

Land Use Category	Permit Application Fee
Residential, < 100 units (includes farm and field approaches)	\$50
Residential, ≥ 100 units	\$100
Retail, < 35,000 sq. ft.	\$50
Retail, ≥ 35,000 sq. ft.	\$100
Office, < 50,000 sq. ft.	\$50
Office, ≥ 50,000 sq. ft.	\$100
Industrial, < 70,000 sq.ft.	\$50
Industrial, ≥ 70,000 sq.ft.	\$100
Lodging, < 100 rooms	\$50
Lodging, ≥ 100 rooms	\$100
School (K-12)	\$100

(3-27-13)

**b.** Encroachments other than approaches: fifty dollars (\$50). (3-27-13)

**c.** Utility Permits: (3-13-02)

**i.** Non-interstate: new, modify, relocate with no prior easement rights, fifty dollars (\$50). (3-27-13)

**ii.** Interstate: fees will be addressed at the time of application. (3-27-13)

**iii.** Interstate and non-interstate: maintenance or emergency repairs with no prior easement rights - No Charge (3-27-13)

**iv.** Interstate and non-interstate: new, modify, relocate with prior easement rights within an ITD State highway project) - No Charge. (3-27-13)

**03. Miscellaneous Costs.** In addition to the application fee, the Department may require payment of costs associated with the following: (3-30-01)

**a.** Study or appraisal review; or (3-30-01)

**b.** Appraisal fees required to establish the value of property for new, additional, modification in design or use, or relocation of approaches or other encroachments in a controlled access highway. (3-13-02)

**c.** Inspection fees may be charged at the discretion of the District Engineer when substantial inspection time will be required to monitor and accept work done within the right-of-way. This includes wages, travel, subsistence and other expenses incurred. The intent is to recover only Department costs. When the inspection fee is to be assessed, it shall be stipulated under the application’s special provisions. Travel time in excess of one (1) hour, a loaded payroll rate, vehicle rental cost, subsistence, and other expenses incurred. If additional inspections are required, the permittee will be billed a flat fee as determined by the Department at the time the permit is issued.

(3-30-01)

**d.** A performance bond may be required of an applicant at the discretion of the Department. The purpose of this bond is to guarantee completion of the work in accordance with the requirements of the permit. The bond amount should be large enough to cover costs to correct potential damage that might be caused by the permittee. The bond shall be executed by a surety company authorized to conduct business in Idaho. (3-30-01)

**e.** Construction of highway modifications or improvements, including but not limited to signals, illumination, signs, pavement markings, delineation, guardrail, and culverts; (3-30-01)

**f.** Changes or adjustments made to highway features or fixtures; or (3-30-01)

**g.** Expenses relating to photocopying highway plans, permits or related documents. (3-30-01)

**04. Waivers.** Permit fees may be waived and the justification included with the application for: (3-30-01)

**a.** Approaches resulting from right-of-way negotiations that are included in plans and completed during construction of a highway project. (3-30-01)

**b.** Government agencies. (3-30-01)

**c.** Agricultural uses of the right-of-way as included in the right-of-way agreement. (3-30-01)

**d.** Approaches and other encroachments where direct benefit to the Department is gained. (3-30-01)

**e.** Utility adjustments or relocations per project utility agreement, or requested by the Department, or utility maintenance and emergency repairs. (3-30-01)

**701. --799. (RESERVED)**

**800. UNAUTHORIZED AND NONSTANDARD ENCROACHMENTS.**

**01. Compliance.** District Engineers shall ensure compliance with all applicable laws and Department policies relating to the removal or correction of unauthorized and non-standard encroachments in accordance with Department rules and policies. (3-30-01)

**02. Prohibition.** Approaches and other encroachments on state highway rights-of-way that are installed without an approved state highway right-of-way permit, or not constructed in accordance with the Department requirements as stated in the permit, or are naturally occurring adjacent to the state highway right-of-way line and create a hazard, are prohibited, may be removed or their use may be suspended until corrective action is taken. The application process shall be immediately initiated when applicable or the encroachment removed when such a permit cannot be approved. (3-30-01)

**03. Nonstandard Encroachment.** When a permitted encroachment does not meet Department standards, the applicant or permittee shall be given one (1) month to upgrade the encroachment to the encroachment standards. Encroachments may be removed by the Department and legal action initiated to collect the removal cost. (Section 40-2319, Idaho Code) The one (1) month period may be shortened if an imminent or immediate threat to the safety of the traveling public is present. Time extensions may be granted by the Department or delegated local highway agency. However, if the permittee does not comply, the permit shall be revoked and the encroachment removed. (3-30-01)

**04. Encroachment Removal.** Any person or entity maintaining an unauthorized encroachment of any kind upon state highway right-of-way shall be served, according to law, with a notice to remove the same. Failure to remove the encroachment within forty-eight (48) hours shall be followed by a certified letter from the Department requesting removal within ten (10) days. If the encroachment is still not removed, the Department shall institute appropriate legal action to have it removed. The Department may take immediate corrective action if an imminent or immediate threat to the safety of the traveling public is present. (3-27-13)

**05. Liability of Applicant.** The applicant may be held liable for injury or damages caused by the unauthorized or non-standard encroachment. The Department shall make no reimbursement for removal of unauthorized or non-standard encroachments nor shall compensation be made for any losses that may arise from their removal. The Department may initiate legal action to recover costs for the removal of unauthorized or non-standard encroachments. (3-30-01)

**801. PROHIBITIONS.**

**01. Prohibited Uses.** The use of the highway right-of-way or any portion thereof for any of the following uses or purposes shall be prohibited: (12-26-90)

**a.** Mobile stores, mobile lunch wagons or similar businesses that stop vehicles to offer for sale or sell their wares. (3-30-01)

**b.** Solicitation or sale of any goods or services, attempts to serve, distribute, petition or recruit, and all associated stopping, standing or parking of vehicles (except Department-approved vending privileges in safety rest areas. (3-30-01)

**c.** The storage of any substance, equipment or material, including but not limited to logs, lumber, supplies or aggregates. (3-30-01)

**d.** The abandonment of vehicles or other large objects. (3-30-01)

**e.** Servicing, refueling and repairing of vehicles, except for emergencies. (3-30-01)

**f.** The placement of portable objects or signs (material or copy), displays, or other unapproved highway fixtures. (3-30-01)

**g.** Permanent, temporary or mobile structures, manned or unmanned. (3-30-01)

**h.** Any obstruction that creates a traffic hazard, including trees, shrubbery, fences, walls, non-standard mailbox stands, or other appurtenances. (3-30-01)

**i.** Signs or displays that resemble, hide or because of their color, interfere with the effectiveness of traffic signals and other traffic control devices. (3-30-01)

**02. Modification of Rule.** The Department may modify this rule for emergency, temporary installations for the benefit to the highway user. (3-30-01)

**03. Encroachment Hazards.** Encroachments shall not interfere with the safety of the highway or the visibility and effectiveness of traffic control devices, form a wall or building support, obstruct crosswalks or wheelchair ramps, or force pedestrians into the highway. (3-30-01)

**04. Board Jurisdiction.** The Board, by and through the Department, may consummate agreements with cities and villages whereby they may exercise their police powers on those matters within their jurisdiction. (3-30-01)

**802. -- 999. (RESERVED)**



### 39.03.43 – RULES GOVERNING UTILITIES ON STATE HIGHWAY RIGHT-OF-WAY

#### 000. LEGAL AUTHORITY.

Under authority of Sections 40-312(3) and 67-5229, Idaho Code, the Idaho Transportation Board adopts this rule. (3-20-04)

#### 001. TITLE AND SCOPE.

**01. Title.** This rule is titled IDAPA 39, Title 03, Chapter 43, “Rules Governing Utilities On State Highway Right-of-Way.” (3-20-04)

**02. Scope.** The purpose of the policy is to regulate the location, design and methods for installing, relocating, adjusting and maintaining utilities on State highway right-of-way when such use and occupancy is legal, in the public interest and will not adversely affect the highway or its users. The policy applies to new utility installations, to existing utility installations to be retained, relocated, maintained or adjusted because of highway construction or reconstruction, and to the relocation of utility facilities which are found to constitute a definite hazard to the traveling public. (3-20-04)

#### 002. INCORPORATION BY REFERENCE.

The Idaho Transportation Department incorporates by reference the July 2003 Edition of “Utility Accommodation Policy.” This publication is available for public inspection and copying at the Office of the Utilities/Railroad Engineer at the Idaho Transportation Department central office, or the District offices, or the Idaho Transportation Department Website at <http://itd.idaho.gov>. (3-30-07)

#### 003. -- 999. (RESERVED)

**39.03.44 – RULES GOVERNING HIGHWAY RELOCATION ASSISTANCE FOR  
PERSONS DISPLACED BY PUBLIC PROGRAMS**

**000. LEGAL AUTHORITY.**

The Idaho Transportation Board adopts this rule under the authority of Chapters 1 and 20, Title 40, and Chapter 11, Title 58, Idaho Code, and any amendments thereto. (7-1-97)

**001. TITLE AND SCOPE.**

This rule is titled IDAPA 39.03.44, "Rules Governing Highway Relocation Assistance for Person Displaced by Public Programs." The purpose of this rule is to ensure that persons displaced as a result of all state, federal or federally assisted projects are treated fairly, consistently and equitably, so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole and further that displaced persons are dealt with in a manner that is efficient and cost effective. (7-1-97)

**002. INCORPORATION BY REFERENCE.**

**01. Regulations Incorporated.** 49 CFR Part 24 Uniform Relocation Assistance and Real Property Acquisition Regulations dated March 2, 1989 and amendments thereto. (7-1-97)

**02. Availability of Records.** Copies of the 49 CFR Part 24 Uniform Relocation Assistance and Real Property Acquisition Regulations can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (7-1-97)

**003. -- 999. (RESERVED)**

**39.03.47 – RULES GOVERNING CERTIFICATION OF LOCAL IMPROVED ROAD MILEAGE**

**000. LEGAL AUTHORITY.**

Under authority of Sections 40-312 and 40-709, Idaho Code, the Idaho Transportation Board hereby adopts the following rule concerning the annual certification of county and highway district improved road mileage for the apportionment of highway user revenues. (12-26-90)

**001. TITLE AND SCOPE.**

**01. Title.** This rule is titled IDAPA 39.03.47, “Rules Governing Certification of Local Improved Road Mileage,” IDAPA 39, Title 03, Chapter 47. (3-30-01)

**02. Scope.** This rule sets out standards to be followed in determining which roads in counties are improved roads. (3-30-01)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Graded and Drained Earth Road.** A traveled way of natural earth, aligned and graded to permit reasonable convenient use by a motor vehicle, and drained by longitudinal and transverse systems, natural or artificial, sufficiently to prevent serious impairment of the roadway by surface water. (12-26-90)

**02. Improved Road.** A graded and drained earth road or better. (12-26-90)

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

**100. DETERMINATION OF AN IMPROVED ROAD.**

**01. Status of Improvement.** Highways laid out and marked to include four (4) or more travel lanes shall be considered as two (2) roadways and mileage for each roadway will be eligible for inclusion in the inventory dependent on Status of Improvement as provided below. (12-26-90)

**02. Road Inventory Determination of an Improved Road.** The “Road Inventory Determination of an Improved Road” sets forth standards for an improved road and gives examples and illustrations of roadways that are eligible and are not eligible for inclusion in the inventory. (A copy of “The Road Inventory Determination of an Improved Road” can be obtained at the Idaho Transportation Department.) (3-30-01)

**101. -- 200. (RESERVED)**

**201. BORDER LINE ROADS.**

**01. City Boundaries.** If city corporate boundaries follow the centerline of an approved improved roadway, one-half (1/2) the mileage for each roadway surface along the length of said city boundary shall be included in county or highway district certification. (12-26-90)

**02. County or Highway District Boundaries.** If county or highway district boundaries follow the centerline of an approved improved roadway, mileage will be determined by agreement of the entities or if there is no agreement, then one-half (1/2) shall be attributed to each entity. (12-26-90)

**202. -- 999. (RESERVED)**

**39.03.48 – RULES GOVERNING ROUTES EXEMPT FROM LOCAL PLANS AND ORDINANCES**

**000. LEGAL AUTHORITY.**

The Idaho Transportation Board is authorized by Section 40-312, Idaho Code, to prescribe and enforce rules and regulations affecting state highways; by Section 40-310, Idaho Code, to determine which highways or sections of highways shall be part of the state highway system; and by Section 67-6528, Idaho Code, to identify the major transportation systems of statewide importance which would be exempt from local plans and ordinances as adopted according to Chapter 65, Title 67, Idaho Code. (11-30-89)

**001. TITLE AND SCOPE.**

This rule is titled IDAPA 39.03.48, “Rules Governing Routes Exempt from Local Plans and Ordinances.” The purpose of this rule is to follow-up on a provision contained within Idaho’s Local Planning Act concerning the designation of transportation systems of statewide importance which are exempt from local plans and ordinances. The intent of this legislative provision is to prevent local control over improvements to transportation systems of statewide importance. However, it is recognized by the Idaho Transportation Board that local regulations are necessary to achieve the future location, relocation, realignment and other improvements to the state highway system in accord with the Idaho Transportation Board’s plans. (11-30-89)

**002. -- 099. (RESERVED)**

**100. STATE HIGHWAY SYSTEM DESIGNATION.**

The state highway system consists of those major highway transportation routes designated by the Idaho Transportation Board pursuant to Section 40-310, Idaho Code, and is hereby determined to be part of the “transportation systems of statewide importance” for the purposes of Section 67-6528, Idaho Code. (11-30-89)

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

**200. LOCAL AGENCIES.**

This rule is not intended to discourage state/local agreements or to preclude the cities and counties from adopting and implementing: Zoning Ordinances (Section 67-6511, Idaho Code); Special Use Permits (Section 67-6512, Idaho Code); Subdivision Ordinances (Section 67-6513, Idaho Code); Planned Unit Developments (Section 67-6515, Idaho Code); Future Acquisition Maps (Section 67-6517, Idaho Code); Standards (Section 67-6518, Idaho Code); and Permit Granting Processes (Section 67-6519, Idaho Code). The Idaho Transportation Board supports a continued cooperative relationship with cities and counties concerning local ordinances pursuant to Section 67-6511 through Section 67-6519, Idaho Code, where such ordinances are beneficial to the state highway system. (11-30-89)

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

**300. EXISTING STATE HIGHWAY SYSTEM.**

The state highway system is not a permanent configuration or mileage because of additions or deletions over time. The official system description is kept current in the Department’s records and is available to the public upon request. (4-11-19)

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

## 39.03.49 – RULES GOVERNING IGNITION INTERLOCK BREATH ALCOHOL DEVICES

### 000. LEGAL AUTHORITY.

This rule is promulgated pursuant to Section 18-8008, Idaho Code. (12-26-90)

### 001. TITLE AND SCOPE.

The rule is titled IDAPA 39.03.49, "Rules Governing Ignition Interlock Breath Alcohol Devices," and the purpose of this rule is to establish regulations for certification, installation, repair and removal of ignition interlock breath alcohol devices. (12-26-90)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

**01. Alcohol.** The generic class of organic compounds known as alcohols and, specifically, the chemical compound ethyl alcohol. For the purpose of Ignition Interlock Devices, there is no requirement expressed or implied that the device be specifically for ethyl alcohol. (12-26-90)

**02. Breath Alcohol Concentration (BAC).** The weight amount of alcohol contained in a unit volume of breath, measured in grams Ethanol/two hundred ten (210) liters of breath. (12-26-90)

**03. Court (Or Originating Court).** The particular Idaho state court that has required the use of an ignition interlock breath alcohol device by a particular individual. (12-26-90)

**04. Certification.** The approval process required by the Idaho Transportation Department. (12-26-90)

**05. Department.** The Idaho Transportation Department. (7-1-96)

**06. Device.** An breath alcohol ignition interlock device. (7-1-96)

**07. Ignition Interlock Device.** An instrument designed to measure the BAC of an individual and which prevents a motorized vehicle from starting when the BAC exceeds a predetermined and preset level. (7-1-96)

**08. Independent Testing Laboratory.** A laboratory facility that is not subject to the control of the manufacturer of the device. (7-1-96)

**09. Interlock.** The state in which a motor vehicle is prevented from starting by a device. (12-26-90)

**10. Lessee.** The person ordered by a court to drive only vehicles which have certified devices installed. (12-26-90)

**11. Manufacturer or Manufacturer's Representative.** The person, company or corporation who produces the device, or a recognized representative who sells, rents, leases, installs, maintains and removes the device. (7-1-96)

### 011. -- 099. (RESERVED)

### 100. CERTIFICATION PROCESS.

**01. Equipment Standards.** To be certified, a device must meet or exceed the federal National Highway Traffic Safety Administration's (NHTSA) model specifications for breath alcohol ignition interlock devices (BAIID) as published in the Federal Register/Vol. 57, No.67/Tuesday, April 7, 1992 and are subject to any subsequent standards published by NHTSA. Only a notarized statement and a copy of the Certification Test Report, from an independent testing laboratory performing the tests as specified, will be accepted as proof of meeting or exceeding the standards. The statement shall include the calibration dates and the name and signature of the person in charge of the tests under the following sentence: All tests on two (2) samples of (model names) \_\_\_\_\_ manufactured by \_\_\_\_\_ were conducted in accordance with specifications listed in [the above referenced Federal Register]. (7-1-96)

**a.** A manufacturer must report to the Department any changes in the design of the device along with a notarized re-certification statement from an independent testing laboratory thirty (30) days prior to implementing device usage in Idaho. (7-1-96)

**b.** Devices that were certified under less stringent IDAPA rules governing BAIID devices or previous model specifications as published in the Federal Register will be grandfathered for use in the state for a period no longer than one hundred eighty (180) days from the effective date of the most recent published device specifications. (7-1-96)

**02. Proof of Insurance.** The manufacturer shall annually provide to the Idaho Transportation Department proof of insurance with minimum liability limits of one million dollars (\$1,000,000) per occurrence, with three million dollars (\$3,000,000) aggregate total. The liability covered shall include defects in product design and materials, as well as workmanship during manufacture, calibration, installation and removal. The proof of insurance shall include a statement from the insurance carrier that thirty (30) days' notice shall be given to the Idaho Transportation Department prior to cancellation. (7-1-96)

**03. Hold Harmless.** The manufacturer shall provide to the Idaho Transportation Department a notarized statement that the manufacturer will be totally responsible for product liability and will indemnify the following from any liability resulting from the device or its installation or use: (7-1-96)

- a.** The state of Idaho; and (7-1-96)
- b.** The court that ordered the installation of the device. (7-1-96)
- c.** The county, its employees and designees administering the program. (7-1-96)

**04. Manufacturer's Reporting Requirements.** The manufacturer shall provide the Department a description of its installation and monitoring procedures, maintenance technician training program, and set of criteria for monitoring and reporting offenders. (7-1-96)

**05. Criteria for Certification and/or Revocation.** Upon receipt of a statement from a testing laboratory that two (2) samples of a device have successfully passed the test procedures specified in this rule, the required documentation, and the certificate of insurance, the Department shall issue a Letter of Certification for the device. The Letter of Certification shall be valid until voluntarily surrendered by the manufacturer or until revoked by the Department for cause. Reasons for revocation include, but are not limited to: (7-1-96)

- a.** Evidence of repeated device failures due to gross defects in design, materials and/or workmanship during manufacture, installation or calibration of the device; (12-26-90)
- b.** Notice of cancellation of manufacturer's liability insurance is received; or (12-26-90)
- c.** Notification that the manufacturer is no longer in business. (12-26-90)
- d.** Voluntary request of the manufacturer to remove a device from the certified list; (7-1-96)
- e.** Any other reasonable cause to believe the device was inaccurately represented to meet the performance standards; or (7-1-96)
- f.** Failure to submit required reports to the Department. (7-1-96)

**06. Notice of Revocation.** Unless necessary for the immediate good and welfare of the public, revocation shall be effective ten (10) days after manufacturer's receipt of notice, which shall be sent via certified mail, return receipt requested. A copy of each Notice of Revocation shall be provided to all originating courts or their designees and lessees utilizing the revoked device with notice to contact the manufacturer for a replacement. (7-1-96)

**07. Removal of Revoked Devices.** Upon revocation or voluntary surrender of a certified device, a manufacturer shall be responsible for removal of all like devices from lessees' vehicles. (7-1-96)

**a.** A manufacturer shall be responsible for any costs connected with removal of their revoked devices from lessees' vehicles and the installation of certified replacement devices. (7-1-96)

**08. Right to Appeal.** Upon voluntary surrender, or revocation of a Letter of Certification for a manufacturer's device, manufacturers may request a review of revocation. Such request shall be submitted to the Department, in writing, within twenty (20) days of revocation. (7-1-96)

**09. Repository for Letter of Certification.** The Idaho Transportation Department shall maintain a file of all existing Letters of Certification. The Department shall provide the administrative office of the courts and each trial court administrator or designee of the court with a copy of each Letter of Certification. (7-1-96)

**101. TEST SPECIFICATIONS FOR CERTIFICATION.**

A device must meet or exceed the federal National Highway Traffic Safety Administration's safety specifications and safety tests for breath alcohol ignition interlock devices (BAIID) as published in the Federal Register/Vol.57, No.67/Tuesday, April 7, 1992 and are subject to any subsequent standards published by NHTSA. (7-1-96)

**01. Ground Elevation Accuracy.** The BAIID must maintain accuracy to ground elevations up to two and one half (2.5) km. (7-1-96)

**02. High Altitude and Low Temperature Accuracy.** The BAIID must maintain accuracy in combined situations of high altitude (two and one half kilometers (2.5 km.)) and low temperature (minus forty degrees Centigrade (-40° C)). (7-1-96)

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

**200. INSTALLATION STANDARDS.**

**01. Installer.** Device must be installed by a manufacturer or its representative. (12-26-90)

**02. Unauthorized Persons.** Lessees or other unauthorized persons shall not be allowed to watch the installation of the device. (12-26-90)

**03. Security.** Adequate security measures must be taken to prevent unauthorized persons from accessing secured materials (tamper seals, installation instructions, etc.) (12-26-90)

**04. Installation Instructions.** Each manufacturer shall develop written instructions for installation of his device(s). (12-26-90)

**05. Vehicle Condition Screen.** The installer must screen vehicles for acceptable mechanical and electrical condition, in accordance with the device manufacturer's instructions. (12-26-90)

**06. Mandatory Vehicle Maintenance.** Conditions that would interfere with the function of the device, (e.g. low battery or alternator voltage, stalling frequent enough to require additional breath tests, etc.) must be corrected to an acceptable level. (12-26-90)

**07. Installation Standards.** Installations must be made in a workmanlike manner, within accordance to accepted trade standards, and according to the instructions provided by the manufacturer. (12-26-90)

**08. Device Removal Standards.** Whenever a device is removed, the vehicle must be reasonably restored to its original condition. All severed wires must be permanently reconnected and insulated with heat shrink tubing or its equivalent. (12-26-90)

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

**300. DEVICE MAINTENANCE AND REPORTS.**

**01. Device Examination Schedule.** Each lessee shall have the device examined by a manufacturer or its representative for correct calibration and evidence of tampering every sixty (60) days, or more often as may be ordered by the originating court, or less frequently, as may be ordered by the originating court to a maximum of one hundred and twenty (120) days. (12-26-90)

**02. Report of Examination.** A report on the results of each check shall be provided to the trial court administrator or designee of the originating court. The report shall reflect what adjustments, if any, were necessary in the calibration of the device, any evidence of tampering, and any other available information the originating court may order. (7-1-96)

**03. Corrective Action Report.** Complaints by the lessee shall be accompanied by a statement of the actions taken to correct the problem(s). Reports of the problem(s) and action(s) taken shall be submitted to the originating court or its designee within three (3) business days. (7-1-96)

**04. Additional Report.** An additional report shall be provided to the Idaho Transportation Department on a quarterly basis summarizing all periodic checks ordered by the originating court and all complaints received by the manufacturer from the lessee for each model or type of certified device. These reports shall be categorized by: (7-1-96)

- a. Customer error of operation. (12-26-90)
- b. Faulty automotive equipment other than the device. (12-26-90)
- c. Apparent misuse or attempts to circumvent the device, causing damage. (12-26-90)
- d. Device failure due to material defect, design defect, workmanship errors in construction, installation or calibration. (12-26-90)

**301. DEVICE SECURITY.**

**01. Tampering Precaution.** The manufacturer shall take all reasonable steps necessary to prevent tampering or physical circumvention of the device. These steps shall include special locks, seals and installation procedures that prevent and/or record evidence of tampering and/or circumvention attempts. (12-26-90)

**02. Device Identification.** Each device shall be uniquely serial numbered. All reports to the trial court administrator or designee of an originating court concerning a particular device shall include the name and address of the lessee, the originating court's file number, and the unique number of the device. (7-1-96)

**03. Warning Label.** The manufacturer shall provide a label containing a notice (at least ten (10) point boldface type) on each certified device reading: **WARNING: ANY PERSON TAMPERING, CIRCUMVENTING, OR OTHERWISE MISUSING THIS DEVICE MAY BE SUBJECTED TO CRIMINAL SANCTIONS.** (Section 18-8009, Idaho Code) (12-26-90)

- a. The label shall be capable of being affixed to the device. (12-26-90)
- b. The manufacturer shall provide an area on the outside of the device where the label is most likely to be seen by the operator of the vehicle. (12-26-90)
- c. The label must be affixed to the device at all times while installed in the lessee's vehicle. (12-26-90)

**04. Physical Anti-Tamper Security.** (7-1-96)

- a. Use unique, easily identifiable wire, covering or sheathing over all wires used to install the device, which are not inside a secured enclosure. (12-26-90)
- b. Use unique, easily identifiable covering, seal, epoxy or resin at all exposed electrical connections for the device. (12-26-90)
- c. Make all connections to the vehicle under the dash or in an inconspicuous area of the vehicle. (12-26-90)



d. Use unique, easily identifiable tamper seal, epoxy or resin at all openings (except breath or exhaust ports). (12-26-90)

**05. Personnel Requirements.** Devices must be installed, inspected, tested and maintained by a qualified manufacturer or its representative. (12-26-90)

a. Installers must have the training and skills necessary to install, troubleshoot and check for proper operation of the device, and to screen the vehicle for acceptable condition. (12-26-90)

b. Personnel whose functions and duties include installing, calibrating, and performing tamper inspections and reporting duties, should not have been convicted of a crime substantially related to the convicted lessee's violation. This may include, but is not limited to, persons convicted of: Driving under the influence (DUI) within the last five (5) years; more than one (1) DUI overall; probation violation; and perjury. (7-1-96)

c. For the purposes of this section, "convicted" shall include entering a plea of guilty, nolo contendere, or to have been found guilty or been given a withheld judgment. (12-26-90)

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

**400. MANDATORY OPERATIONAL FEATURES.**

Notwithstanding other provisions of this rule, a certified device must comply with the following: (12-26-90)

**01. Device Setpoint.** The actual setpoint of each device to interlock when the breath sample is provided shall be determined by the originating court. The capability to change this setting shall be made secure, by the manufacturer, to prevent unauthorized adjustment of the device. (7-1-96)

**401. OTHER PROVISIONS.**

Notwithstanding other provisions of this rule, each manufacturer of a certified device: (12-26-90)

**01. Repair Deadline.** Shall guarantee repair or replacement of a defective device within the state of Idaho within a maximum of forty-eight (48) hours of receipt of complaint. (12-26-90)

**02. Statement of Charges.** Shall provide the originating court or its designee and the lessee a statement of charges clearly specifying warranty details, purchased cost, and/or monthly lease amount, any additional charges anticipated for routine calibration and service checks, what items (if any) are provided without charge, and under what conditions a lessee is responsible for payment for service calls and/or damage to the device. (7-1-96)

**03. Notice of Installation.** Upon installation of each device, the manufacturer or its representative will provide the trial court administrator or designee of the originating court with a notice of installation that includes the name, address and telephone number of the lessee, the originating court's file number, and the unique number of the device. (7-1-96)

**04. Notice of Charges.** Shall provide written notice to the Idaho Transportation Department and each trial court administrator or designee of the court a statement of charges for each device model. (7-1-96)

**05. Nationwide Service Locations.** Shall provide to all lessees at the time of installation: (12-26-90)

a. A list of all calibration/service locations in the continental United States. The list shall include the business name, address and telephone number of all such locations. (12-26-90)

b. A twenty-four (24) hour telephone number to call for service support for those who may be traveling outside service areas. (12-26-90)

**06. Statewide Service Locations.** Shall provide to all lessees at the time of installation: (7-1-96)

a. A list of all calibration/service locations in the state of Idaho. The list shall include the business

name, address and telephone number of all such locations. (7-1-96)

**b.** Shall notify the Idaho Transportation Department of the location, including address, phone number and contact person, of each installation station in Idaho. (7-1-96)

**07. Attempts to Disobey Court Order.** Shall report to the originating court or its designee any requests to disconnect or circumvent, without court order, any device of their own or another manufacturer. (7-1-96)

**08. Removal of Device.** Shall advise the originating court or its designee prior to removing the device under circumstances other than: (7-1-96)

**a.** Completion of sentence or other terms of a court order. (12-26-90)

**b.** Immediate device repair needs. (12-26-90)

**09. Substitute Device.** Whenever a device is removed for repair and cannot immediately be reinstalled, a substitute device shall be utilized. Under no circumstances shall a lessee's vehicle be permitted to be driven without a required device. (12-26-90)

**402. REMOVAL PROCEDURES.**

When so notified in writing by the originating court, the manufacturer shall remove the device and return the vehicle to normal operating condition. A final report, which includes a summary of all fees paid by the lessee over the life of the contract, shall be forwarded to the originating court or its designee and the Idaho Transportation Department. (7-1-96)

**403. -- 499. (RESERVED)**

**500. PRIMARY RESPONSIBILITIES OF AGENCIES/OFFICES MONITORING THIS RULE.**

Listed below are some of the primary responsibilities of the indicated offices/agencies, as outlined in this rule. (12-26-90)

**01. Testing Lab.** (12-26-90)

**a.** Test devices for minimum standards. (12-26-90)

**b.** Submit notarized statement and copy of the Certification Test Report to manufacturer. (7-1-96)

**c.** Keep log of test results. (12-26-90)

**02. Manufacturer.** (12-26-90)

**a.** Submit device to lab for testing. (12-26-90)

**b.** Install, maintain and remove device as required by court. (12-26-90)

**c.** Set interlock level as established by court. (12-26-90)

**d.** Submit quarterly (or more frequent) maintenance reports to originating court or its designee. (7-1-96)

**e.** Submit quarterly reports to Idaho Transportation Department summarizing periodic device examinations and all complaints received. (7-1-96)

**f.** Provide court, lessee and Idaho Transportation Department with statement of charges and/or any additional fees. (12-26-90)

**g.** Provide lessee with service and repair information. (12-26-90)

- h. Provide Idaho Transportation Department with proof of insurance annually. (7-1-96)
- i. Report any attempt to disconnect any device to originating court or its designee. (7-1-96)
- repair. j. Advise court or its designee before removing any device unless authorized or in need of immediate repair. (7-1-96)
- 03. Idaho Transportation Department.** (12-26-90)
- a. Maintain a list of known calibration/service locations in the state. (7-1-96)
- designees). b. Issue Letter of Certification for each device model to manufacturer (copy to courts or their designees). (7-1-96)
- c. When necessary, revoke Letter of Certification (copy to courts or their designees). (7-1-96)
- d. Maintain file of all letters. (12-26-90)
- e. Maintain file of statement of charges (by device model). (12-26-90)
- f. Maintain proof of insurance. (12-26-90)
- 04. Court.** (12-26-90)
- a. The judge will order device installation (including interlock setting), maintenance and removal. (12-26-90)
- b. The trial court administrator or designee of the originating court will receive maintenance reports on each device installed pursuant to order. (7-1-96)
- c. The trial court administrator or designee of the originating court will receive statement of charges. (7-1-96)
- d. The trial court administrator or designee of the originating court will receive manufacturer's reports of attempts to disconnect any device. (7-1-96)
- 05. Lessee.** (12-26-90)
- a. Have device installed and maintained as ordered by court. (7-1-96)
- b. Receive statement of charges and remit fees as scheduled. (7-1-96)
- working order. c. Receive and comply with guidelines regarding repairing and maintaining the vehicle in good working order. (7-1-96)
- 501. -- 999. (RESERVED)**

## 39.03.50 – RULES GOVERNING SAFETY REST AREAS

### 000. LEGAL AUTHORITY.

Under the authority of Section 40-312, Idaho Code, the Idaho Transportation Board adopts this rule. (12-26-90)

### 001. TITLE AND SCOPE.

01. **Title.** This rule is titled IDAPA 39.03.50, “Rules Governing Safety Rest Areas.” (3-6-14)

02. **Scope.** The purpose of this rule is to regulate use of and set standards of behavior for all persons using or visiting developed rest areas. (3-6-14)

### 002. -- 099. (RESERVED)

### 100. SANITATION.

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

01. **Designated Trash Containers.** Failing to dispose of all garbage and trash, including paper, cans, bottles and other waste materials by either removal from the site or depositing in designated trash containers. (12-26-90)

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

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

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

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

06. **Dumping.** Dumping of household or commercial garbage or trash brought as such from private off-site into any on-site refuse containers or other refuse facilities. (3-6-14)

### 101. -- 199. (RESERVED)

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

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

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

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

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

04. **Soliciting.** Selling or offering for sale any merchandise or service other than emergency services for disabled vehicles, such as towing, vehicle repairs, fire response, ambulance or medical response/transport, or vending machines permitted under the provisions of federal law or federal rule and Section 67-5411, Idaho Code. (4-11-15)

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

06. **Fireworks/Incendiary Devices.** Discharging fireworks or any other incendiary device. Fireworks are considered any combustible or explosive substance, but do not include any automotive safety flares or any other emergency or safety device. (4-11-15)

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

**300. OCCUPANCY OF DEVELOPED REST AREAS.**

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

**01. Camping/Occupancy of Site.** Camping or occupying a rest area for any purpose other than rest and relaxation from the fatigue of travel. (3-6-14)

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

**03. Time Limits.** Occupancy of the rest areas on interstate highways is limited to ten (10) consecutive hours. Occupancy of rest areas on other routes of the State Highway System is limited to sixteen (16) consecutive hours. (4-11-15)

**04. Fires.** Building fires outside the confines of a stove, grill or fireplace. (3-6-14)

**05. Failure to Clean.** Failing to clean the space occupied before departing. (3-6-14)

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

**a.** Bringing a dog, cat or other animal into a rest area unless it is a certified service animal or crated, caged, leashed or otherwise under physical restrictive control at all times. (3-6-14)

**b.** Permitting a dog, cat or other animal to exercise and/or defecate in areas outside of specifically designated pet areas. (3-6-14)

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

**400. VEHICLES.**

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

**01. Rates of Speed.** Operating any motor vehicles in excess of fifteen (15) mph speed within the confines of a rest area with the exception of acceleration or deceleration ramps. (3-6-14)

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

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

**04. Paths/Roads/Trails in Rest Areas.** Operating any vehicle on paths, roads, or trails in developed rest areas for any purpose other than entering or leaving the area, unless specifically allowed by appropriate signage. (3-6-14)

**05. Accelerating Engine.** Excessively accelerating the engine of any vehicle or motorcycle when such vehicle is not moving or is approaching or leaving the rest area. (3-6-14)

**06. Skateboards/Rollerblades.** Use of skateboards or rollerblades on sidewalks or in areas primarily intended for use by motor vehicles. (3-6-14)

**401. -- 999. (RESERVED)**

**39.03.60 – RULES GOVERNING OUTDOOR ADVERTISING,  
ACCIDENT MEMORIALS, AND OTHER OFFICIAL SIGNS**

**000. LEGAL AUTHORITY.**

The Idaho Transportation Board adopts this rule under the authority of Section 40-312, Idaho Code. (12-26-90)

**001. TITLE AND SCOPE.**

**01. Title.** This rule is titled IDAPA 39.03.60 “Rules Governing Outdoor Advertising, Accident Memorials, and Other Official Signs,” IDAPA 39, TITLE 03, Chapter 60. (5-3-03)

**02. Scope.** This rule contains guidelines for the control of outdoor advertising signs, structures or displays along the interstate, primary system of highways, and National Highway System roads of the state of Idaho pursuant to Chapters 1, 3, and 19, Title 40, Idaho Code. (5-3-03)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

The Idaho Transportation Department adopts the definitions set forth in Sections 40-101 through 40-127, Idaho Code. In addition, as used in this chapter: (12-26-90)

**01. Advertising Structure(s) or Sign(s), or Advertising Display(s).** Any outdoor structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended, or used to advertise or inform. These do not include: (12-26-90)

**a.** Official notices issued by any court or public body or officer. (12-26-90)

**b.** Notices posted by any public officer in performance of a public duty or by any person giving legal notice. (12-26-90)

**c.** Directional, warning, or informational structures required by or authorized by law, informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers and above cable closures. (12-26-90)

**d.** An official or public structure erected near a city or county, and within its territorial or zoning jurisdiction, which contains the name of such city or county, provided the same is maintained wholly at public expense. (12-26-90)

**02. Bypassed Community Signs.** A form of community official sign erected when a city has been bypassed, but remains within five (5) miles of an interstate highway or primary freeway. Such communities have the right to erect and maintain, at city expense, a billboard displaying the name of the city at a location not to exceed one (1) mile from an interchange primarily serving that city. ( )

**03. Commercial or Industrial Activities.** Those activities generally recognized as commercial or industrial by zoning authorities in this State, except that none of the following activities are considered commercial or industrial: (12-26-90)

**a.** Agricultural, forestry, grazing, farming, and related activities, including but not limited to, wayside fresh produce stands. (12-26-90)

**b.** Transient or temporary activities. (12-26-90)

**c.** Activities not visible from the main traveled way. (12-26-90)

**d.** Activities conducted in a building principally used as a residence. (12-26-90)

**e.** Railroad tracks and minor sidings. (12-26-90)

**f.** Outdoor advertising displays. (12-26-90)

**04. Commercial or Industrial Zones.** The provisions of Section 40-1911, Idaho Code, do not apply to those segments of the interstate and primary system of highways which traverse and abut on commercial, business, or

industrial zones within the boundaries of incorporated municipalities, wherein the use of real property adjacent to and abutting on the interstate and primary system of highways is subject to municipal or county regulation or control, or which traverse and abut on other areas where the land use is clearly established by State law or county zoning regulation, as industrial, business, or commercial, or which are located within areas adjacent to the interstate and primary system of highways which are in unzoned commercial or industrial areas as determined by the Department from actual land uses; provided, however, that the Department will determine the size, lighting, and spacing of signs in such zoned and unzoned industrial, business, or commercial areas. For the purpose of this rule, areas abutting interstate and primary highways of this State which are zoned commercial or industrial by counties and municipalities are to be valid as commercial or industrial zones only as to the portions actually used for commerce or industrial purposes and the land along the highway in urban areas for a distance of six hundred (600) feet immediately abutting to the area of the use, and does not include areas so zoned in anticipation of such uses at some uncertain future date nor does it include areas so zoned for the primary purpose of allowing advertising structures. (5-3-03)

**05. Community Official Signs.** Signs approved by a city, erected within its territorial or zoning jurisdiction and maintained wholly at city expense. These signs will display only the name of the city and driver directional information. Specific advertising is not allowed. ( )

**06. Customary Maintenance.** Repainting the structure, trim, or sign face, changing poster paper, replacing existing electrical components after failure and replacing damaged structural parts. It does not include the installation of a new sign face nor the initial installation of lighting. Substantial replacement begins when repair and other costs exceed fifty percent (50%) of the sign's reproduction cost. ( )

**07. Department.** The Idaho Transportation Department, acting through the Idaho Transportation Board. (12-26-90)

**08. Directional Signs.** Signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. ( )

**09. Erect.** To construct, build, raise, assemble, place, affix, create, paint, draw, or in any other way bring into being or establish, but does not include any of the foregoing activities when performed incident to the change of an advertising message or customary maintenance of a sign. (12-26-90)

**10. Federal or State Law.** A federal or state constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by this state or a federal agency or a political subdivision of this state pursuant to a federal or state constitution or statutes. ( )

**11. Freeway.** A divided highway with four (4) or more lanes for through traffic and full control of access. ( )

**12. Grandfather Sign.** One which was lawfully in existence in a zoned or unzoned commercial or industrial area on the effective date of the State law and which may remain even though it may not comply with the size, lighting, or spacing criteria within this rule. This clause only allows an individual sign at its particular location for the duration of its normal life subject to customary maintenance. (12-26-90)

**13. Illegal Sign.** One which was erected and/or maintained in violation of State law. (12-26-90)

**14. Interstate System or Interstate Highway.** Any portion of the national system of interstate and defense highways located within the state, as officially designated, or as may hereinafter be so designated, by the Idaho Transportation Board, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, U.S. Code, "Highways." ( )

**15. Maintain or Place.** To allow to exist, subject to the provision of Chapter 19, Title 40, Idaho Code. ( )

**16. Maintenance.** To preserve from failure or decline, or repair, refurbish, repaint or otherwise keep an

existing highway or structure in a suitable state for use. ( )

**17. Main Traveled Way.** The portion of a roadway for the movement of vehicles, exclusive of shoulders. (12-26-90)

**18. Multiple Message Sign (MMS).** A sign, display, or device that changes the message or image on the sign electronically by movement or rotation of panels or slats, or electronic billboards that have a programmable display of variable text or symbolic imagery. (5-3-03)

**19. Nonconforming Sign.** One which was lawfully erected, but does not comply with the provisions of State law or State regulation passed at a later date or which later fails to comply with State law or State regulation due to changed conditions. Illegally erected and/or maintained signs are not nonconforming signs. All signs located within an unzoned area are nonconforming if the commercial or industrial activity used in defining the area ceases for a continuous period of six (6) months. (12-26-90)

**20. Official Signs and Notices.** Signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs. ( )

**21. Parkland.** Any publicly owned land which is designated or used as a public park, recreation area, wildlife or water fowl refuge or historical site. ( )

**22. Permit.** A written approval by the department covering location, size, lighting, spacing, number and message content requirements of permissible directional signs. ( )

**23. Permit Application.** The form or format of information and data supplied by an individual, agency, or organization to obtain approval for erection and maintenance of a directional sign. ( )

**24. Primary System or Primary Highway.** Any portion of the highways of the state, as officially designated, or as may hereafter be so designated, by the Idaho Transportation Board, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, U.S. Code, "Highways." ( )

**25. Public Service Signs.** Signs located on school bus or other bus stop bench or shelter, which: ( )

**a.** Identify the donor, sponsor, or contributor of said shelters; ( )

**b.** Contain public service messages, which will not occupy not less than fifty percent (50%) of the area of the sign; ( )

**c.** Contain no other message; ( )

**d.** Are located on school bus or other bench or shelter authorized or approved by city, county, or state law, regulation, or ordinance, and at places approved by the city, county, or state agency controlling the highway involved; and ( )

**e.** May not exceed thirty-two (32) square feet in area. Not more than one (1) sign on each bench or shelter shall face in any one (1) direction. ( )

**26. Public Utility Signs.** Warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations. ( )

**27. Regionally Known.** The attraction or activity must be known statewide and in one (1) or more adjoining states. ( )



**28. Rest Area.** Any area of particular scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty. ( )

**29. Service Club and Religious Notices.** Signs and notices, whose erection is authorized by law, relating to meeting of nonprofit service clubs or charitable associations, or religious services, which do not exceed eight (8) square feet in area. ( )

**30. Sign.** An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the interstate or primary highway. ( )

**31. Sign Face.** The overall dimensions or area of that portion or side of an individual sign structure that is designed, intended, and capable of displaying messages. It includes border and trim, but excludes the base or apron, supports and other structural members. (5-3-03)

**32. Sign Structure.** A construction including the sign face, base or apron, and other structural members. (5-3-03)

**33. State.** State of Idaho. ( )

**34. Territorial or Zoning Jurisdiction.** The geographical area located outside of any city or county limits for a distance of three (3) miles. ( )

**35. Transient or Temporary Activity.** An activity is transient or temporary for the purposes of Chapter 19, Title 40, Idaho Code when: (5-3-03)

**a.** The activity lacks any business or privilege license required by the city, county or state. (5-3-03)

**b.** The activity on the property has not been conducted for at least six (6) months at the time of application for a sign permit. (5-3-03)

**c.** The activity lacks utilities (water, power, telephone, etc.) and which are normally utilized by similar commercial activities. (5-3-03)

**d.** The activity is not carried on in a permanent building designed, built or modified for its current commercial or industrial use, located within six hundred sixty (660) feet of the nearest edge of the right-of-way. (5-3-03)

**e.** The property upon which the activity is conducted lacks direct or indirect vehicular access or does not generate vehicular traffic. (5-3-03)

**f.** The activity does not have employees on-site during normal business hours which is considered normal, usual, and customary. (5-3-03)

**g.** The activity lacks a frequency of operations which are considered usual, normal and customary for that type of commercial or industrial operation and the activity is visible and recognizable as a commercial or industrial activity. (5-3-03)

**36. Unzoned Commercial or Industrial Area.** Any area not zoned by State or local law, regulation or ordinance which is occupied by one (1) or more industrial or commercial activities, other than outdoor advertising signs, and the land along the highway for a distance of six hundred (600) feet immediately abutting to the area of the activities. All measurements need to be from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities, and shall be along or parallel to the edge of pavement of the highway. (12-26-90)

**37. Urban Areas.** Any geographical area within the city limits of any incorporated city having a population of five thousand (5,000) or more inhabitants. Population numbers referred to in this Subsection shall be determined by the latest United States census. (12-26-90)

**38. Visible.** Capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity. (12-26-90)

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

**100. GENERAL.**

**01. Visible Informative Content.** This rule applies only to advertising displays whose informative content is visible from the main traveled way of interstate or primary highways. (5-3-03)

**02. Responsibilities.** Both the owner of a sign and the landowner upon whose property the sign is located will be held responsible for violations of this rule. (12-26-90)

**03. Nonconforming Signs.** Signs which stand without advertising copy, obsolete advertising matter, or continued need for repairs beyond customary maintenance constitute discontinuance and abandonment after a period of six (6) months and will be subject to removal. (12-26-90)

**04. Signs Visible from the Main Travel-Way.** Signs beyond six hundred and sixty (660) feet from the right-of-way will be considered to have been erected with the purpose of their message being read from the main traveled way when: (12-26-90)

**a.** The sign angle and size is such that the message content is readily visible from the main traveled way; or (12-26-90)

**b.** The exposure time is long enough at the maximum speed limit for the sign message to be readable and comprehensible. (12-26-90)

**05. Permit or License Revocation.** The erection or maintenance of signs from the highway right-of-way; or the destruction of trees or shrubs within the highway right-of-way will be cause for permit or license revocation. (12-26-90)

**06. Multiple Sign Faces.** Criteria which permit multiple sign faces to be considered as one (1) sign structure for spacing purposes are limited to signs which are physically contiguous, or connected by the same structure or cross-bracing. (12-26-90)

**07. Edge of Right-of-Way.** Distance from the edge of the right-of-way is measured horizontally along a line normal or perpendicular to the centerline of the highway. (5-3-03)

**08. Control Requirement.** Where a sign is erected with the purpose of its message being read from two (2) or more highways, one (1) or more of which is a controlled highway, the more stringent of applicable control requirements will apply. (12-26-90)

**101. -- 109. (RESERVED)**

**110. EXEMPTIONS AUTHORIZED BY SECTION 40-1904, IDAHO CODE.**

**01. Signs Erected by Public Officers or Agencies.** Directional and other official signs and notices erected by public officers or agencies will be issued permits at no cost to the owners, as described more fully elsewhere in this rule. (12-26-90)

**02. Advertising Sale or Lease of Property.** Signs advertising the sale or lease of property upon which they are located. These signs shall not advertise any products, services, or anything unrelated to the selling or leasing

of the property. (12-26-90)

**03. On-Premise Signs.** Signs (on-premise) advertising activities conducted on the property upon which they are located are allowed, subject to the following: Not more than one (1) such sign, visible to traffic proceeding in any one (1) direction and advertising activities being conducted upon the real property where the sign is located may be permitted more than fifty (50) feet from the advertised activity. The criteria for determining the limits of the area of the advertised activity from which the fifty (50) feet measurement can be taken are as follows:

(12-26-90)

**a.** When the advertised activity is a business, commercial, or industrial land use, the distance shall be measured from the regularly used buildings, parking lots, storage, or processing areas, or other structures which are essential and customary to the conduct of the business and within its limits of the real property. It is not to be measured from driveways, fences, or similar facilities. (12-26-90)

**b.** When the advertised activity is a noncommercial or nonindustrial land use such as a residence, farm, or orchard, the distance is measured from the major structures on the property. (12-26-90)

**c.** In no event will a sign site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land which is nonbuildable land, such as, but not limited to, swampland, marshland, or other wetland, or which is a common or private roadway, or held by easement or other lesser interest than the premises where the advertised activity is located. (5-3-03)

**111. -- 119. (RESERVED)**

**120. DISPLAYS LOCATED WITHIN ZONED OR UNZONED INDUSTRIAL, BUSINESS OR COMMERCIAL AREAS.**

**01. Size of Signs.** Within zoned and unzoned commercial, business, or industrial areas, and pursuant to the directive of Section 40-312, Idaho Code, the face of an advertising display shall not exceed the following size limits: (5-3-03)

**a.** Maximum area - one thousand (1000) square feet; (12-26-90)

**b.** Maximum height - thirty (30) feet; (12-26-90)

**c.** Maximum length - fifty (50) feet. (12-26-90)

**02. Dimensions.** The area of a sign face will include all of the border, trim, cutouts, and extensions. (5-3-03)

**03. Spacing of Advertising Displays.** Within zoned and unzoned commercial, business, or industrial areas, as defined in Section 010 herein and pursuant to directive of Section 40-1912, Idaho Code, the following spacing regulations apply: (12-26-90)

**a.** Advertising displays on interstate and primary highways may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or to obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic. (5-3-03)

**b.** Advertising displays on interstate and primary highways may not be located within five hundred (500) feet of any of the following which are adjacent to the highway: public parks; public forests; public playgrounds; scenic areas designated as such by the Department or other State agencies having and exercising such authority. (5-3-03)

**c.** In a case where the highway passes beneath a railroad overpass or beneath a highway grade separation structure where no traffic connection between the crossing highways is provided, no advertising display may be located on the road passing beneath the structure within a distance of five hundred (500) feet from the nearest edge of the overhead route. (12-26-90)

**d.** Measurement between signs or from a sign to another feature shall be made horizontally along the pavement edge nearest the signs, between points directly opposite the signs or other features. The point of the sign nearest to the highway is used to determine the measurement point. (12-26-90)

**e.** Two (2) sign faces will be permitted at a single location, arranged back to back, or in a V-type configuration, but shall only have one (1) sign face visible to one (1) direction of travel and will be considered as one (1) sign for spacing regulation. (5-3-03)

**f.** Signs erected by public agencies or officers and on-premise signs, as defined in Section 010 of this rule, shall not be counted nor shall measurements be made from them for determining compliance with spacing requirements. (12-26-90)

**g.** Spacing on interstate highways between advertising displays along each side of the highway shall be a minimum of five hundred (500) feet. The spacing between multiple message signs shall be a minimum of five thousand (5,000) feet. (5-3-03)

**h.** No advertising display on interstate highways shall be erected or maintained within one thousand (1000) feet of an interchange or rest area with the exception of permitted, existing displays which shall have grandfather rights. The minimum spacing between displays as set forth herein for interstate highways shall govern the actual location of any sign display permitted and existing within this zone. No advertising display subject to this regulation shall be permitted along any interstate highways within the actual "interchange area," defined as commencing or ending at the beginning or ending of pavement widening at the exit or entrance to the main traveled way of the interstate freeway. (5-3-03)

**i.** The spacing of signs on primary highways between advertising displays along each side of the highway must be a minimum of one hundred (100) feet in urban areas and a minimum of two hundred and fifty (250) feet outside of urban areas. The spacing between multiple message signs shall be a minimum of one thousand (1,000) feet in urban areas and a minimum of five thousand (5,000) feet outside urban areas. (5-3-03)

**j.** Where intersections are more than five hundred (500) feet apart, no off-premise advertising display will be permitted within one hundred (100) feet from the right-of-way line of the intersecting road unless buildings or structures control cross vision; then advertising displays may be permitted up to and on top of the intervening structures. (12-26-90)

**k.** When intersections are five hundred (500) feet or less apart, off-premise advertising displays will be permitted a minimum of fifty (50) feet from the right-of-way line of the intersecting road; however, all advertising displays between fifty (50) feet and one hundred (100) feet from the right-of-way line of the intersecting road must have the lower extremities of the advertising display (excluding posts) not less than fourteen (14) feet above the traveled way of the roads affected by the intersection for visibility under the signs by road users. Advertising displays may be permitted within one hundred (100) feet of the intersecting road's right-of-way when buildings or structures control cross vision; but such displays must not be located so as to cause greater restriction to vision than the existing buildings or structures. (12-26-90)

**l.** Alleys, undeveloped rights-of-way, private roads and driveways shall not be regarded as intersecting streets, roads or highways. (12-26-90)

**m.** Advertising structures may not be located within five hundred (500) feet of the point of pavement widening at the entrance or exit to a rest area, weight checking station, port of entry or other State-operated facility for the use of motorists. (12-26-90)

**04. Lighting.** (12-26-90)

**a.** No sign will be allowed if it is so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal. ( )

**b.** Section 40-1910, Idaho Code, prohibits advertising structures which are visible from any interstate

or primary highway and display any red or blinking intermittent light likely to be mistaken for a warning or danger signal. (5-3-03)

**c.** Section 40-1910, Idaho Code, prohibits advertising displays which include any illumination of such brilliance and so positioned as to blind or dazzle the vision of travelers on adjacent interstate and primary highways. (5-3-03)

**05. Variable or Multiple Message Signs. (5-3-03)**

**a.** Multiple message signs shall not include any illumination or image which moves continuously, appears to be in motion or has any moving or animated parts or video displays or broadcasts. No multiple message sign may include any illumination which is flashing or moving, except those giving public service information such as date, time, temperature, weather, or other similar information. (5-3-03)

**b.** If illuminated with beams or rays of such intensity or brilliance that it would cause glare or impair the vision of the driver or interfere with the operation of a motor vehicle, effective shielding must be in place so as to prevent beams or rays of light from being directed at any portion of the traveled way. (5-3-03)

**c.** If illuminated, illumination must not obscure or interfere with the effectiveness of official traffic sign, device, or signal. (5-3-03)

**d.** Multiple message signs must not emit or utilize any sound capable of being detected. (5-3-03)

**e.** The message or image on a multiple message sign must remain static for a minimum of eight (8) seconds. (5-3-03)

**f.** An automated change of message or image on a multiple message sign must be accomplished within two (2) seconds or less and contain a default design that will freeze the sign face in one (1) position should a malfunction occur. (5-3-03)

**g.** If a multiple message sign is in violation of any of the conditions listed in Subsection 300.05.a. through 300.05.g., the permit will be revoked. (5-3-03)

**121. -- 129. (RESERVED)**

**130. LICENSES.**

Pursuant to Sections 40-1905, 40-1906 and 40-1907, Idaho Code, no person will be allowed to engage in the business of outdoor advertising without first having secured an outdoor advertising license and paid the required license fee. Licenses must be renewed annually; the Department cannot renew licenses for a period longer than one (1) year at a time. License application forms may be secured at the Idaho Transportation Department District Offices, as listed in Section 005 of this rule. ( )

**131. -- 139. (RESERVED)**

**140. OUTDOOR ADVERTISING PERMITS.**

No person may place any advertising display within the areas affected by the provisions of Section 40-1907, Idaho Code, without first having secured a written permit from the Department. ( )

**01. Application Forms.** Permit application forms may be secured at the Idaho Transportation Department District Offices. ( )

**02. Expiration of Annual Permits.** Annual permits will expire December 31 each year, but a multi-year permit may be issued as a convenience to the outdoor advertiser. An original annual permit fee of ten dollars (\$10) shall accompany each original permit application. An annual renewal fee of three dollars (\$3) will be assessed for each permit, and the Department will mail a bill to each sign owner annually. Payment for the renewal of a permit must be received at least thirty (30) days prior to the expiration date. Permit fees will not be prorated for a fraction of a year. (5-3-03)

**03. Modified Advertising Structures.** Whenever an advertising structure is relocated or undergoes substantial replacement beyond customary maintenance, the modified structure will be considered to be a new sign. Therefore, pursuant to Section 40-1906, Idaho Code, an application for a new display must be submitted before such reconstruction is begun. A permit fee of ten dollars (\$10) must accompany the application. Conversion of a sign face to a multiple message sign face will be considered substantial replacement beyond customary maintenance and considered a new sign. (5-3-03)

**a.** Nonconforming signs which are allowed to be maintained until the State requires their removal cannot be modified so as to increase the reproduction cost. They must remain substantially the same as they were on the effective date of the state law and any subsequent amendments. (12-26-90)

**b.** The categories of nonconforming signs which may be maintained until they are removed, and nonconforming signs which have been “grandfathered”. in commercial and industrial areas cannot include new signs erected in their place or any changes to the existing sign which would be beyond customary maintenance. (12-26-90)

**04. Space Requirement Violations.** In the event that two (2) or more lawfully erected signs along the interstate and primary highways are in violation of the spacing requirements and the regulations promulgated by the Department, the Department shall accord the interested parties a full opportunity to be heard and shall thereafter make a finding as to the date of erection of each of the signs and award the permit or permits to the applicants whose signs were first erected. (5-3-03)

**05. Application.** All applications received during the Department’s normal office hours during the same mail pickup will be construed to have been received simultaneously. In the case of a tie between applicants and upon notification thereof by the Department, it shall determine by lot which will receive the permit. (12-26-90)

**06. Permit Denial.** No permit will be issued for a new sign having two (2) or more faces in any one (1) direction. (5-3-03)

**07. Physically Connected Signs.** Two (2) sign structures which are physically connected will be considered as a single sign for permit purposes. (5-3-03)

**08. Standard Permit Application.** Owners of displays defined under Sections 40-102(4) and 40-1904, Idaho Code, will be requested to submit a standard permit application for each such display. Identification tags will be issued for such displays at no cost to the owners. No applications will be requested for minor signs, or emergency telephone signs, nor will tags be issued for them. (12-26-90)

**09. Lost or Destroyed Identification Tags.** Identification tags, except those issued under Subsection 401.08, which are lost or destroyed either before or after being attached to signs will be replaced only upon payment of a three dollar (\$3) fee. Tags issued under Subsection 401.08 will be replaced at no cost if lost or destroyed. (12-26-90)

**10. Invalid Permit.** A permit will only be issued for a sign that is lawfully erected within one hundred and eighty (180) days of the permit issuance date. The identification tag is to be affixed only to the sign for which it was issued and must be so affixed within one hundred and eighty (180) days after being received; otherwise, the permit automatically becomes invalid. (5-3-03)

**11. Cancellation of Permit.** If the sign for which a permit has been issued is removed, destroyed, or for any reason becomes unusable prior to the expiration date of permit, the permit may be canceled. (12-26-90)

**12. Advertising Illegal Activities.** Signs advertising activities illegal under Federal, State, or local law are not eligible for permits. (12-26-90)

**13. Revoked Permits.** When the Department determines a false or misleading statement has been made in the application for a license or permit, said license or permit shall be revoked. (12-26-90)

**14. Appeal Process.** In the event a permit is denied or revoked, the applicant may obtain instructions for the appeal process at any of the Idaho Transportation Department District Office locations listed in Section 005.

(5-3-03)

**141. -- 149. (RESERVED)**

**150. BONDS OF OUT-OF-STATE PERMITTEES AND LICENSEES.**

As authorized by Section 40-1908, Idaho Code, a bond in the penal sum of one thousand dollars (\$1000) shall be paid by all non-resident or foreign corporation permittees and licensees. ( )

**151. -- 199. (RESERVED)**

**200. GENERAL: TRAFFIC ACCIDENT MEMORIALS.**

In accordance with Section 49-1316, Idaho Code, relatives or friends of a person killed in a traffic accident upon a state highway may apply for a permit to erect a memorial in memory of the decedent. Only one (1) memorial may be placed per fatal accident. Memorials placed before January 1, 2003 may be retained if they meet all of the requirements of Section 202 and Subsections 215.01 through 215.03, of this rule. ( )

**201. TRAFFIC ACCIDENT MEMORIAL PERMIT.**

After January 1, 2003, relatives or friends of a person killed in a traffic accident upon a state highway may obtain an approved encroachment permit from the Department prior to installing, maintaining or removing a memorial within the state highway right-of-way. As a condition of permit approval, the individual(s) wishing to install a memorial needs to provide the Department with the following: ( )

**01. Written Approval from the Next of Kin.** Written approval from the decedent's next of kin, who are related by blood, marriage or adoption; and ( )

**02. Written Approval from the Property Owner.** Written approval from all property owners whose property is within a five hundred foot (500') radius of the proposed memorial location. ( )

**202. PHYSICAL REQUIREMENTS.**

The maximum dimensions of a memorial shall be thirty-six (36) inches high, sixteen (16) inches wide and shall weigh no more than seven (7) pounds. The height requirement is measured from the ground level to the highest point on the memorial, the width shall be measured horizontally at the memorial's widest point and the weight is based on the portion above the ground. ( )

**01. Shape and Color.** Memorials shall not be shaped or colored to portray, resemble or conflict with any traffic control device. The memorial shall not be reflectorized. ( )

**02. Memorial Site.** Planting or landscaping at a memorial is not allowed. ( )

**203. -- 214. (RESERVED)**

**215. LOCATION.**

Memorials must be erected as near as practical to the milepost location where the accident occurred. The person installing the memorial is responsible for contacting a utility locating service to identify the location of any utilities in the area prior to placement of the memorial. See call-before-you-dig requirements in Sections 55-2201 through 55-2210 of Idaho Code. The applicant is required to meet on site with the Department highway maintenance supervisor assigned to the area where a memorial is to be erected to review the proposed installation. The Department highway maintenance supervisor will be responsible for final approval of the memorial location. ( )

**01. Shoulder.** Memorials shall be placed as far as practical from the edge of roadway, but must be placed a minimum of twenty (20) feet from the roadway shoulder where highway right-of-way width permits. ( )

**02. Medians.** Placement of an accident memorial in the median of any interstate or non-interstate highway is prohibited. ( )

**03. Incorporated Cities.** Memorials are not allowed within the boundaries of incorporated cities. ( )

**216. -- 219. (RESERVED)**

**220. SAFETY.**

**01. Parking.** Those participating in the installation, maintenance, or removal of the memorial shall park their vehicle(s) as far as practical from the travel lanes and in an area where there is adequate sight distance on the highway in both directions. ( )

**02. Participants and Motorists.** Those participating in the installation, maintenance, or removal of a memorial must wear proper safety attire and obey all safety procedures approved by the Department at the time of permit issuance. A high degree of safety must be maintained for the traveling public and the participants during the installation, maintenance, or removal of a memorial. ( )

**221. -- 239. (RESERVED)**

**240. MAINTENANCE.**

The Department is not responsible for maintenance, vandalism, damage, or theft of a memorial. The permittee is responsible for maintenance of the memorial. All memorials need to be maintained in good condition at all times and in a manner that complies with this rule. ( )

**241. COMPLIANCE.**

**01. Improper Installation.** Memorials not installed in compliance with this rule are subject to removal by the Department. ( )

**02. Maintenance.** Memorials not maintained in good condition are subject to removal by the Department. ( )

**03. Traffic Hazard.** Memorials that have been installed or maintained in such a manner that either the memorial or the participants create a traffic hazard are subject to removal by the Department. ( )

**242. -- 299. (RESERVED)**

**300. GENERAL: STANDARDS FOR COMMUNITY OFFICIAL SIGNS.**

**01. Direction of Sign.** Only one (1) community sign may face the same direction of travel along a single route approaching the community. ( )

**02. Location of Sign.** A community sign may not be located within two thousand (2,000) feet of an interchange, along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way) or located within one thousand (1,000) feet of an intersection of a primary route with another designated federal-aid route. Community signs may not be located within two thousand (2,000) feet of a rest area, park land or scenic area. ( )

**03. Size of Sign.** Community signs shall not exceed the following limits: ( )

**a.** Maximum area -- Three hundred (300) square feet. ( )

**b.** Maximum height -- Thirty (30) feet. ( )

**c.** Maximum length -- Thirty (30) feet. ( )

**301. STANDARDS FOR DIRECTIONAL SIGNS.**

**01. Prohibited Directional Signs.** The following directional signs are prohibited: ( )



- a. Signs advertising activities that are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those activities. ( )
- b. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic. ( )
- c. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features. ( )
- d. Signs which are structurally unsafe or in disrepair. ( )
- e. Signs which move or have any animated or moving parts. ( )
- f. Signs located in rest areas, parklands, or scenic areas. ( )
- g. Signs that advertise or call attention to an activity or attraction no longer in existence and/or abandoned or obsolete signs. ( )
- h. Signs not maintained in a neat, clean, and attractive condition or in good repair. ( )
- i. Signs not designed to withstand a wind pressure of thirty (30) pounds per square foot of exposed surface. ( )
- j. A sign installation that has not been issued an annual permit. ( )
- 02. Size of Directional Signs.** ( )
  - a. Signs shall not exceed the following limits: Maximum area, one hundred and fifty (150) square feet; maximum height twenty (20) feet; maximum length, twenty (20) feet. ( )
  - b. All dimensions include border and trim, but exclude supports. ( )
- 03. Spacing of Directional Signs.** ( )
  - a. Each location of a sign must be approved by the department and the property owner on whose property the sign is installed. ( )
  - b. A sign may not be located within two thousand (2,000) feet of an interchange, along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way), or located within one thousand (1,000) feet of an intersection of a primary route with another designated federal-aid route. ( )
  - c. A sign may not be located within two thousand (2,000) feet of a rest area, park land, or scenic area. ( )
  - d. A sign shall not be located within one (1) mile of any other directional sign facing the same direction of travel. ( )
  - e. Not more than three (3) signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity. ( )
  - f. Signs located adjacent to the interstate system shall be within seventy-five (75) air miles of the activity. ( )
  - g. Signs located adjacent to the primary system shall be within fifty (50) air miles of the activity. ( )

**04. Message Content.** The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are prohibited. ( )

**302. -- 131. (RESERVED)**

**320. LIGHTING, SIGNS MAY BE ILLUMINATED, SUBJECT TO THE FOLLOWING.**

**01. Flashing or Moving Lights.** Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited. ( )

**02. Lights Which Impair Driver Vision.** Signs which are not effectively shielded so as to prevent beams or rays of light from being directed toward any portion of the traveled way of a highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited. ( )

**03. Interference With Traffic Sign, Device, or Signal.** A sign may not be so illuminated as to interfere with the effectiveness of, or obscure an official traffic sign, device, or signal. ( )

**321. -- 339. (RESERVED)**

**340. ADMINISTRATION.**

**01. Selection Methods and Criteria.** ( )

**a.** Application for permits to erect and maintain directional and official signs under this regulation shall be filed with the Idaho Transportation Department, Division of Highways. ( )

**b.** The approval of applications of directional signs is to be based on the following criteria: Nationally or regionally known activity of outstanding interest to the traveling public; location of activity relative to highway and proposed signing plan; dominant attraction must be for edification and enjoyment of motorist, not tourist-oriented business or for generation of activity income; and Attraction or Activity shall have drinking water and toilet facilities meeting the Idaho Department of Health and Welfare standards. ( )

**c.** The applicant of directional signs will furnish to the department the following data: Proposed sign plans including sign details, color, construction, shape, legend, lighting and location; letter of property owner approval of directional sign installation; department of Health and Welfare certification that water and toilet facilities meet Idaho standards; and documentation and explanation by applicant if it is a regionally known attraction or activity of outstanding interest to the traveling public. ( )

**d.** Applicants for directional signing will furnish to the department, on request, information relating to the limits of their advertising program, need of directional signing for the traveling public, number of public visits, and such other information as deemed appropriate to assure compliance with federal regulations and state law. The applicant or other representatives may appear before the Idaho Transportation Board in case of controversy. ( )

**e.** The applicant of community or bypassed community official signs will furnish the department the same information required in Subsection 340.01.c of this rule. ( )

**02. Permits.** ( )

**a.** Permit application forms may be secured at any office of the Idaho Transportation Department, Division of Highways. ( )

**b.** Permits will be issued annually expiring on December 31 each year, but can be issued for a period greater than one (1) year as a matter of convenience. ( )

c. The initial permit application fee is ten dollars (\$10) with an annual renewal fee of three dollars (\$3). The initial application fee is nonrefundable. A fee shall not be prorated for a fraction of a year or be refunded for the balance of a permit period if the sign is removed. ( )

d. A permit shall not be issued until the sign has been approved by the department. A valid permit may be transferred to another person or jurisdiction upon written notice to the department. ( )

e. A permit shall not be issued for a sign located adjacent to a fully-controlled access highway or freeway unless it has been determined that access to the sign can be obtained without violating the access control provisions of the highway. The department will cancel a permit and require removal of the sign if it is found that the sign has been erected, maintained or serviced from the highway right-of-way at those locations where the department has acquired rights of access to the highway or rights of access have not accrued to the abutting property. In addition, the department may recover from the sign owner or person erecting, maintaining or servicing the sign, the amount of damage of landscaping, sodding, fencing, ditching or other highway appurtenances resulting from such acts. ( )

f. The permit can be revoked by the state if the department determines that the applicant has knowingly supplied false or misleading information in his application for a permit or permit renewal. ( )

g. Service club, religious notice and community official signs will require a permit but the fees will be waived. For permit purposes, service club and religious notice structures may have more than one (1) face but not more than six (6) faces. ( )

**341. -- 999. (RESERVED)**

## 39.03.65 – RULES GOVERNING TRAFFIC MINUTE ENTRIES

### 000. LEGAL AUTHORITY.

This rule adopted under the authority of Sections 49-201 and 49-202, Idaho Code. (1-2-93)

### 001. TITLE AND SCOPE.

This rule is titled IDAPA 39.03.65, "Rules Governing Traffic Minute Entries," and establishes the procedures for making Traffic Minute Entries regulating speed zoning, parking, traffic control devices, and the selective exclusion of traffic on the State Highway System. (1-2-93)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

**01. Traffic Minute Entries.** Official entries made to Department records regulating traffic on the State Highway System. (1-2-93)

### 011. -- 099. (RESERVED)

### 100. GENERAL PROVISIONS.

**01. Preparation.** Traffic Minute Entries (except for temporary speed zones and flashing beacons with warning signs) shall be prepared by the Traffic Section for approval by the Department Director, State Highway Administrator, or the Chief of Highway Operations. (1-2-93)

**02. Requests.** Each request for a Traffic Minute Entry shall indicate: (1-2-93)

**a.** The location regulated by the Traffic Minute Entry; (1-2-93)

**b.** The basis for the request; and (1-2-93)

**c.** Traffic and engineering study of operational characteristics and observations that support the Traffic Minute Entry. (1-2-93)

**03. Temporary Regulations.** Temporary traffic regulations for construction or maintenance zones and flashing beacons with warning signs shall be initiated, monitored, corrected, and deleted by written approval of the appropriate District Engineer. (1-2-93)

**04. Unresolved Differences.** Traffic Minute Entry worksheets regulating traffic on the State Highway System within incorporated cities should have the concurrence of the appropriate local officials. Unresolved differences regarding Traffic Minute Entries shall be documented by the Traffic Section and presented to the Transportation Board for resolution. (1-2-93)

### 101. -- 199. (RESERVED)

### 200. REQUIRED ENTRIES.

Traffic Minute Entries shall be made for the following types of traffic regulations on the State Highway System: (1-2-93)

**01. Limits.** (1-2-93)

**a.** Permanent speed limits. (1-2-93)

**b.** Bridge limits (allowable gross loads). (1-2-93)

**02. Parking.** (1-2-93)

**a.** Rural parking restrictions. (1-2-93)

**b.** Approval of angle parking on state highways through cities. (1-2-93)

**03. Traffic Control.** (1-2-93)

- a. Traffic control signals and flashing intersection beacons at locations where there are no cooperative agreements between ITD and local authorities. (1-2-93)
- b. Flashing beacons with warning signs approved by District Engineer. (1-2-93)
- c. Exceptions to placing stop signs at passively protected railroad crossings. (1-2-93)
- d. Selective exclusion of vehicles on controlled-access highways. (1-2-93)

**04. Other Entries.** Temporary construction, maintenance, and emergency regulations approved by the District Engineer. (1-2-93)

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

**300. PARKING ON STATE HIGHWAYS WITHIN CITIES.**

Parking prohibitions and regulations on the State Highway System within incorporated cities shall be approved by the city and the ITD Traffic Section and shall be covered by a local ordinance unless provided for by a cooperative maintenance or construction agreement. Unresolved differences between incorporated cities and ITD shall be presented to the Transportation Board for final resolution. (1-2-93)

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

## 39.03.80 – RULES GOVERNING LEGALIZATION OF OVERLOADED VEHICLES

### 000. LEGAL AUTHORITY.

This rule is adopted under the authority of Sections 40-312 and 49-1001(8)(c), Idaho Code. (3-3-92)

### 001. TITLE AND SCOPE.

This rule is titled IDAPA 39.03.80, "Rules Governing Legalization of Overloaded Vehicles." Section 49-1001(8), Idaho Code, provides that certain overweight vehicles may not proceed past the place of weighing until brought into compliance with the applicable weight limitations; however, these vehicles may be authorized to proceed to a location where they can be safely brought into compliance if it is determined that it would be unsafe or impractical to do so at the place of weighing. This rule addresses the implementation of this procedure. (3-3-92)

### 002. -- 009. (RESERVED)

### 010. DEFINITIONS.

**01. Place of Weighing.** That location where a motor vehicle, semitrailer, trailer, or combination thereof, is weighed by enforcement personnel to determine its legal allowable axle, combination of axles, or gross weight. Such locations include: (3-3-92)

a. Permanent ports of entry. (3-3-92)

b. Temporary weigh sites where vehicles are weighed on portable scales; (3-3-92)

c. Privately owned scales which are currently certified by the Idaho Department of Agriculture, Bureau of Weights and Measures (when directed by a peace officer or authorized Idaho Transportation Department employee). (3-3-92)

**02. Perishable Commodity.** Any product that will spoil, die, or otherwise become unusable for human or animal consumption, or becomes unmarketable when not properly cared for, maintained, or preserved. (3-3-92)

**03. Legalization.** Bringing a vehicle or load into compliance with applicable weight limitations by adjusting or shifting the load on the vehicle or by off-loading a portion of the load to another vehicle or place of storage. (3-3-92)

**04. Safely Legalized.** A process which will not create undo risk to the driver of a vehicle, the general public, weight enforcement officials, or the commodity itself during removal of portions of the load from the transport vehicle. (3-3-92)

**05. Safe Point of Legalization.** That point closest to the place of weighing where qualified personnel, equipment, or material exist to safely shift, off-load, or transfer cargo from a vehicle to a place of storage or to another vehicle. (3-3-92)

**06. Travel Authorization.** A document authorizing a specific vehicle and its load to travel in an overweight condition from its place of weighing to a safe point of legalization. (3-3-92)

### 011. -- 099. (RESERVED)

### 100. GENERAL PROVISIONS.

**01. Place to Legalize.** All vehicles exceeding the overweight tolerances of Section 49-1001(8), Idaho Code, shall be required to legalize at the place of weighing unless, in the judgment of the weight enforcement official, it would be unsafe and/or impractical to do so. (3-3-92)

**02. Travel Authorization.** Those overweight vehicles, which in the judgment of the weight enforcement official cannot be safely or practically legalized at the place of weighing, shall obtain a travel authorization to travel to a safe point of legalization by payment of the statutory fee. (3-3-92)

a. The safe point of legalization shall be determined by the weight enforcement official in consultation with the vehicle operator or other persons having interest in the vehicle or load. (3-3-92)

b. Vehicles hauling the following commodities shall be considered unsafe or impractical to legalize at

the place of weighing. This list is illustrative and not all inclusive of the following: Bulk hazardous materials and hazardous waste as defined by Section 49-109, Idaho Code; livestock; hot asphalt; concrete; dead animals or parts thereof; highly perishable commodities (i.e., live fish, fresh milk, etc.); bees; and any load where removal of the tie downs may create a possible safety hazard. (3-3-92)

**c.** The owner or operator of vehicles required to off-load portions of their load shall adhere to all applicable safety regulations of the Occupational Safety and Health Administration (OSHA), United States Department of Transportation, and the Idaho Department of Commerce and Labor. (3-3-92)

**d.** A supervisor within the port of entry chain of command shall determine if loads of questionable safety should be off-loaded at the place of weighing or be allowed to purchase a travel authorization. (3-3-92)

**03. Permission to Off-Load.** No off-loaded commodity shall be left at the place of weighing unless done so with permission of the appropriate authority. (3-3-92)

**a.** Any commodity left at the place of weighing may be removed and stored by the Department at the hauler's expense. (3-3-92)

**b.** A trailer as defined by Section 49-121(6), Idaho Code, may be left at the place of weighing for a reasonable time not to exceed five (5) days if the weight enforcement official determines a traffic hazard will not be created. (3-3-92)

**c.** Any commodity left at a privately owned place of weighing should be done so with the knowledge and express permission of the owner of the site. (3-3-92)

**04. Travel Authorization Restrictions.** (3-3-92)

**a.** Travel authorization shall not be issued to vehicles traveling under the authority of an overweight permit issued pursuant to Section 49-1004, Idaho Code. (3-3-92)

**b.** Travel authorization shall not be issued to allow travel across a restricted structure at weights exceeding its maximum allowable weight or when such weight exceeds the maximum weight that would be permitted under Section 49-1004, Idaho Code. (3-3-92)

**101. -- 999. (RESERVED)**

**39.03.81 – RULES GOVERNING ISSUANCE OF TEMPORARY PERMITS  
IN LIEU OF FULL REGISTRATION**

**000. LEGAL AUTHORITY.**

This rule is adopted under authority of Sections 49-201 and 49-432, Idaho Code. (3-15-02)

**001. TITLE AND SCOPE.**

**01. Title.** The rule is titled IDAPA 39.03.81, “Rules Governing Issuance of Temporary Permits In Lieu of Full Registration.” (3-15-02)

**02. Scope.** This chapter clarifies the requirements governing the issuance of temporary permits for resident and nonresident vehicle operators or owners. (3-15-02)

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Combination of Vehicles.** A tractor or truck tractor and one (1) or more trailers and/or semitrailers. (5-3-03)

**02. First Available Location.** The first vendor along an owner’s or operator’s route of travel from whom one hundred twenty (120) hour temporary permits in lieu of registration can be purchased. (3-15-02)

**03. Increased Registered Weight Temporary Permit.** Temporary authority to exceed the registered maximum gross weight of a vehicle as authorized by Section 49-432, Idaho Code. (3-15-02)

**04. Licensed Vehicle.** A vehicle currently registered in any jurisdiction. (3-15-02)

**05. One Hundred Twenty Hour Temporary Permit.** A one hundred twenty (120) hour temporary permit issued in lieu of an IFTA license/decal and/or vehicle licensing and registration as authorized by Section 49-432, Idaho Code. (3-15-02)

**06. Single Vehicle.** Any tractor, truck tractor, or motor vehicle that is not combined with nor towing one (1) or more trailers and/or semitrailers. Additionally, any unlicensed trailer or semitrailer may be deemed a single vehicle. (5-3-03)

**07. Vendor.** A governmental agency, private or commercial business which sells temporary permits as an agent of the Idaho Transportation Department. (3-15-02)

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

**100. GENERAL PROVISIONS.**

**01. Availability.** One hundred twenty (120) hour temporary permits in lieu of registration are available to owners or operators whose jurisdiction of residence allows temporary permits to like vehicles from the state of Idaho. Increased registered weight temporary permits are available to currently registered vehicles capable of legally operating at the higher gross vehicle weight as declared by the owner or operator. (3-15-02)

**02. Purchase of Temporary Permits.** (3-15-02)

**a.** Owners or operators electing to use increased registered weight temporary permits must purchase permits prior to movement of vehicles on the public highways or roads. Failure to do so may result in enforcement action and may include mandatory full licensing and registration of such vehicle as required by Section 49-434, Idaho Code. The temporary permit shall be on a form prescribed by the department and prominently displayed on the windshield of the permitted vehicle. (3-15-02)

**b.** One hundred twenty (120) hour temporary permits in lieu of registration must be purchased by owners or operators of unlicensed vehicles prior to their movement on the highway. Licensed vehicles may purchase one hundred twenty (120) hour permits in lieu of registration at the first available location as defined by this rule. The temporary permit shall be on a form prescribed by the department and prominently displayed on the windshield of the permitted vehicle. (3-15-02)



**c.** All temporary permits shall be made available for inspection by any law enforcement officer and authorized personnel of the department upon request. (3-15-02)

**d.** Section 49-432, Idaho Code, provides that owners of motor vehicles or combinations of vehicles subject to registration may, in lieu of licensing and registration, purchase a one hundred twenty (120) hour temporary permit in lieu of registration for the operation of such vehicles for periods of one hundred twenty (120) hours. (3-15-02)

**e.** Section 49-432, Idaho Code, provides that owners or operators of motor vehicles currently and validly registered over fifty thousand (50,000) pounds gross vehicle weight may purchase an increased registered weight temporary permit for the operation of such vehicles in excess of the registered maximum gross weight for periods of thirty (30) days. Such permits shall be in addition to any other permit that may be required for excess weight as specified by Section 49-1004, Idaho Code. (3-15-02)

**f.** Section 49-432, Idaho Code, provides that owners or operators of motor vehicles currently and validly registered may purchase an increased registered weight temporary permit for the operation of such vehicles in excess of the registered maximum gross weight for periods of one hundred twenty (120) hours. Such permits shall be in addition to any other permits that may be required for excess weight as specified by Section 49-1004, Idaho Code. (3-15-02)

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

**200. PERMIT REQUIREMENTS.**

**01. Proof of Ownership.** An operator or owner of a vehicle shall show proof of ownership before a permit is issued. (6-4-90)

**a.** Resident vehicle proof of ownership may be documented by: (3-15-02)

**i.** A copy of the Idaho title identifying the owner and vehicle; (3-15-02)

**ii.** A copy of a valid lease agreement identifying the owner and the vehicle; (3-15-02)

**iii.** A copy of an expired registration identifying the current owner and the vehicle; or (3-15-02)

**iv.** A copy of a valid bill of sale transferring ownership of the vehicle. (3-15-02)

**b.** Nonresident vehicle proof of ownership may be documented by: (3-15-02)

**i.** A copy of a valid registration from a base jurisdiction, which qualifies for a permit, identifying the owner and the vehicle; (3-15-02)

**ii.** A copy of an expired lease agreement of an owner/operator not acting as a lessee which identifies the owner and the vehicle; (3-15-02)

**iii.** A copy of a current lease agreement, providing the base jurisdiction qualifies for a permit, which identifies the owner/operator; (3-15-02)

**iv.** A copy of a valid bill of sale transferring ownership of the vehicle; or (3-15-02)

**v.** A copy of the title identifying owner and vehicle. (3-15-02)

**02. Weight of Vehicle.** One hundred twenty (120) hour temporary permits in lieu of registration shall authorize the legal operation of the permitted vehicle to the maximum combined gross weight of a vehicle, not to exceed one hundred five thousand five hundred (105,500) pounds. (3-15-02)

**03. Purchase of Multiple Permits.** Residents or nonresidents who qualify for permits may purchase

more than one (1) permit at a time to cover a time period not to exceed ninety (90) days. Additional time periods must be purchased in increments of one hundred twenty (120) hours or thirty (30) days and assessed the appropriate fees for each increment. (3-15-02)

**04. Permit Denial.** Any person who has been notified by mail at his last known business address as it appears on department records, that his registration has been suspended or revoked shall not be allowed to register in Idaho by securing a temporary permit. Any person, having been duly notified, who purchases a permit and subsequently operates a vehicle displaying such permit while his registration is suspended or revoked is in violation of this rule. Any person failing to provide proof of current registration shall not be allowed to temporarily permit for increased registered weight. Any person obtaining a temporary permit for increased registered weight without a current registration is in violation of this rule. (3-15-02)

**05. Violation of Permit.** If an owner or operator of a vehicle exceeds the operating weight authorized by temporary permit, such owner or operator may be issued a citation for violation of Section 49-438, Idaho Code. The violation shall be limited to the difference between the amount of the actual operating weight and the operating weight authorized by temporary permit. A single temporary permit in lieu of full registration may not be purchased when operating in combination with one (1) or more trailers or semitrailers. Example: Registered or unregistered trailer(s) operating in combination with an unregistered tractor or truck tractor will be required to purchase a temporary permit for a combination of vehicles. (5-3-03)

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

**300. REFUND OF FEES.**

**01. Cause for Refund.** The department will grant refunds for permits sold by its vendors or by Ports of Entry, if the permit was sold as the result of an error made by the department or its vendors. (3-15-02)

**02. Request for Refunds.** Owners or operators shall address all requests for refunds of temporary permit fees to the Idaho Transportation Department, Ports of Entry Section, P.O. Box 7129, Boise, Idaho 83707-1129. (3-15-02)

**03. Documentation for Refunds.** The following documentation must accompany refund requests: (6-4-90)

**a.** Both the yellow display copy and the white receipt copy of the permit; (6-4-90)

**b.** Proof that the vehicle held a valid Idaho registration at the time the permit was issued; and (6-4-90)

**c.** Proof that special fuel tax was paid at the pump or that the permitted vehicle was registered with the Idaho Tax Commission for quarterly payment of fuel tax at the time the permit was sold. (6-4-90)

**04. Denial of Refund.** If the certificate of registration of the permitted vehicle was mailed from Motor Carrier Services or the Division of Motor Vehicles to the correct address of the owner of the vehicle thirty (30) days or more prior to the purchase of the permit or if cause for refund was not provided, a request for refund shall be denied. (3-15-02)

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

**400. TEMPORARY PERMIT VENDOR PROGRAM.**

**01. Vendor Authorization.** Vendors may be established to sell temporary permits provided the vendor meets state requirements. (3-15-02)

**02. Payment to Vendor.** Vendors shall be paid by the department at the rate of three dollars (\$3) per permit sold. Permits sold in multiple increments shall be deemed to be issued as one (1) permit for purposes of payment or remuneration to the vendor. (3-15-02)

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

**500. ADDITIONAL REQUIREMENTS.**

Any overlegal permit required pursuant to Section 49-1004, Idaho Code, shall be in addition to those required by this rule. (3-15-02)

**501. -- 999. (RESERVED)**

## 39.04.01 – RULES GOVERNING AERONAUTICS AND AVIATION

### 000. LEGAL AUTHORITY.

Under authority of Sections 21-105, 21-111, 21-114, 21-142(9), 21-142(15) and 21-519, Idaho Code, the Idaho Transportation Board adopts this rule. Violators of state law and these rules are subject to the penalties specified in Sections 18-7031, 18-7033 and 21-121, Idaho Code. ( )

### 001. TITLE AND SCOPE.

01. **Title.** This rule is titled IDAPA 39.04.01, “Rules Governing Aeronautics and Aviation.” ( )

02. **Scope.** This rule implements the provisions of Title 21, Idaho Code, related to aeronautics and aviation, including rules governing aircraft registration, marking of hazards to air flight, restriction of flight in designated emergency areas, commercial and through-the-fence operations, aerial search and rescue, operations at state airports, Federal Aviation Regulations and the Idaho Airport Aid Program. Where feasible, all rules and regulations regarding navigation of aircraft within the airspace about the state of Idaho will be kept in conformance with the current federal aviation regulations. ( )

### 002. INCORPORATION BY REFERENCE.

These rules incorporate the current Federal Aviation Regulations, 14 CFR Parts 1-191, where they are not inconsistent with existing rules or regulations that may, from time to time, be adopted by the Idaho Transportation Board. Copies of Federal Aviation Regulations, 14 CFR parts 1-191, may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, DC 20402 or electronically at the Electronic Code of Federal Regulations, at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>. This rule also incorporates the Idaho Airport Aid Program, Implementation Manual (3rd Edition, September 2019), and the Department’s Aerial Search and Rescue Manual. ( )

### 007. – 009. (RESERVED)

### 010. DEFINITIONS.

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

02. **Aerial Search and Rescue Volunteer.** One who volunteers services for humanitarian relief. When accepted in support of SAR missions, SAR volunteer shall become quasi-state employee and be protected by state workman’s compensation insurance. ( )

03. **Aerial Search and Rescue Volunteer Aircraft.** A civil aircraft voluntarily made available to be used in aerial search and rescue operations. ( )

04. **Aerial Search and Rescue Volunteer Pilot/Observer.** A pilot/observer qualified in accordance with the Idaho Transportation Department Aerial Search and Rescue Manual. ( )

05. **AFRCC.** Air Force Rescue Coordination Center, the single agency through which federal SAR missions will be prosecuted and federal assistance requested for SAR in the inland region. It is a coordinating agency only. ( )

06. **Aircraft Parking Area.** A designated site constructed on an airport with or without aircraft tiedown chains or ropes for the purpose of parking unattended aircraft. ( )

07. **Airman/Airmen.** Any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while underway. For the purpose of this regulation, search shall be conducted for airmen and passenger(s) of lost aircraft. ( )

08. **Airport.** Any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. For the purposes of this chapter, the term “airport” refers to a publicly owned and managed facility that is open for public use without operational restrictions on its use. For the purposes of Subchapter B of this rule, this is limited to airports that are

owned, leased or permitted by the owner of the land and are under the control of, and operated by the Idaho Transportation Department's Division of Aeronautics. ( )

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

**10. Camping Area.** Any site designated for camping and identified by the placement of picnic tables, fire pits, barbecue stoves or appropriate signing. ( )

**11. Civil Aircraft.** Aircraft other than public aircraft. ( )

**12. Department.** Idaho Transportation Department. ( )

**13. Director.** Director of the Idaho Transportation Department. ( )

**14. District Aerial Search and Rescue Coordinator.** A designated representative of the State Search and Rescue Coordinator. ( )

**15. Division.** The Division of Aeronautics of the Idaho Transportation Department, including its officers and employees. ( )

**16. Fueling.** Any procedure which involves the addition or removal of fuel from aircraft fuel tanks or the transfer of fuel from or into tanks, barrels, or bladders. ( )

**17. Guyed Tower.** A tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself, towers used for military purposes excepted. ( )

**18. Hazardous Material.** Any material or substance as defined by Sections 49-109(3), 39-4403(7) and (14), 39-4407, or 39-6203(9), Idaho Code. ( )

**19. Height.** The distance measured from the original grade at the base of the tower to the highest point of the tower. ( )

**20. Loading Area.** A site designated on an airport for the purpose of loading or unloading passengers and cargo and facilitating the access of designated vehicles. ( )

**21. Marking.** Shall include illuminating, painting, lighting, or designating in a manner to be approved by the department. ( )

**22. National Search and Rescue Manual.** That manual for guidance of U.S. Federal Forces, military or civil, participating in search and rescue (SAR) operations. ( )

**23. National Search and Rescue (SAR) Plan.** Aerospace Rescue and recovery Service Operations Plan Number 9506, entitled, "Inland Search and Rescue." It coordinates the SAR efforts among the states and federal agencies. ( )

**24. Office of Emergency Management (OEM).** State agency in charge of preparing for and/or providing assistance during and after natural or man-made disasters. ( )

**25. Runway.** An airport surface designed specifically for the takeoff and landing of aircraft. ( )

**26. Search and Rescue. (SAR)** ( )

**a. Search -** An investigative act to determine the location of lost aircraft or airman. ( )

- b.** Rescue - Deliver from danger, to save. ( )
- 27. SAR Agreements.** SAR agreements involving federal, state, local, and private agencies, and/or individual(s). ( )
- 28. Search Districts.** Those six (6) areas throughout the State which are designated as aerial search and rescue districts by the Idaho aerial search and rescue plan. These areas are the same as the states six (6) highway districts. ( )
- 29. State Aerial Search and Rescue Coordinator.** Director, Idaho Transportation Department, or his duly appointed representative, responsible for directing, coordinating and supervising all phases of aerial search and rescue operations. ( )
- 30. State Aerial Search and Rescue Plan.** Those plans, policies, and procedures set forth in the Department Aerial Search and Rescue Manual. ( )
- 31. Temporary or Permanent Guyed Tower.** A guyed tower erected and standing for any period of time whatsoever. ( )
- 32. Vehicle.** Any motorized vehicle excluding aircraft and including, but not limited to, highway automobile, truck, bus, van, trailer, motorcycle, ATV, recreational vehicle, or snowmobile. ( )
- 011. -- 099. (RESERVED)**

**SUBCHAPTER A – RULES GOVERNING AIRCRAFT REGISTRATION**

**100. AIRCRAFT TO BE REGISTERED.**

Every resident of this State who operates an aircraft or who owns an aircraft holding a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the Federal government, or a resident or nonresident operating an aircraft for hire, spraying, dusting, seeding, or operated in the transportation of persons or property, shall register such aircraft with the Idaho Division of Aeronautics hereinafter referred to as Division. ( )

**101. REGISTRATION PERIOD.**

**01. Annual Period.** The period for the registration of aircraft in the state of Idaho runs from January 1 through December 31 of each year. ( )

**02. Annual Registration Closing Date.** The closing date for the annual registration is the first Monday of November in each year. A list of unregistered aircraft, as of that date, shall be forwarded to the proper county assessor for inclusion in personal property assessment due on the fourth Monday in November, as required by Section 63-301, Idaho Code. ( )

**102. APPLICATIONS FOR AIRCRAFT REGISTRATION.**

**01. Current Registration Certificate.** An owner who holds a currently effective registration certificate for an aircraft issued by the Federal government shall make application for an aircraft registration upon appropriate forms to be prescribed and furnished by the Division that contain the applicant's title and the names and addresses of all persons having any interest therein. ( )

**02. Application Information.** Every application for an aircraft registration shall contain: The name of the manufacturer, model, year, the aircraft identification number and serial number, engine type, and aircraft manufacturer's certified maximum gross weight. ( )

**103. FEES.**

Annual aircraft registration fees are set forth in Section 21-114, Idaho Code. ( )

**104. REGISTRATION TO BE CARRIED AND DISPLAYED.**

The certificate of registration issued by the Division shall be carried at all times in said aircraft and must be made available for examination upon reasonable request by any person charged with the duty of enforcing the aviation laws of this state. ( )

**105. TRANSFER OF TITLE OR INTEREST IN AIRCRAFT.**

**01. Previous Owner Responsibility.** The owner of an aircraft registered by the Division under Section 21-114, Idaho Code, who transfers or assigns his title or interest in such aircraft, shall: ( )

a. Within 15 days, notify the Division in writing of such transfer or assignment; and ( )

b. Furnish the Division with the name and address of the person to whom such transfer or assignment was made; and ( )

c. Remove or obliterate the decal so as to indicate its cancellation prior to delivery of the aircraft to the transferee or assignee; and ( )

d. Request the Division to cancel the registration. ( )

**02. New Owner Responsibility.** The new owner, if a resident of Idaho or a non-resident qualifying under Section 100 of this rule, shall register the aircraft with the Division. ( )

**106. EXEMPTIONS.**

This rule does not apply to aircraft exempted from registration by Section 21-114(d), Idaho Code. ( )

**107 – 199. (RESERVED)**

**SUBCHAPTER B – RULES GOVERNING OPERATIONS AT STATE AIRPORTS**

**200. SPECIAL OPERATING RESTRICTIONS ON AIRPORTS.**

The Division may establish special operating restrictions on an airport to assure the safety and convenience of users and the general public when special events or temporary or seasonal factors warrant. Such special restrictions shall be issued in writing at least ten (10) days prior to their effective date and published as a NOTAM (Notice to Airmen) and be conspicuously posted on the airport. When practical, the Division may advise principal users of the airport of the special restrictions. ( )

**201. AIRCRAFT PARKING, LOADING, AND TIEDOWN.**

Aircraft that are loading and unloading on state airports shall be parked in the available designated aircraft parking or loading areas. In the event such designated areas are fully occupied, pilots shall park so as to remain clear of the defined runway. All unattended aircraft shall be tied down when tiedowns are available. Persons parking their aircraft where tiedowns are not available shall secure their aircraft with portable tiedown devices, or use other positive means of restraining their aircraft which will assure that their aircraft will not damage other aircraft or property. Aircraft will not remain tied down on an airport in excess of one (1) month without the approval of the Division. ( )

**202. VEHICLES, DOMESTIC ANIMALS, BAGGAGE, AND OBJECTS.**

**01. Parking.** No person will operate or park any vehicle on an airport without prior approval of the Division. Vehicles authorized on an airport will not be operated on the runway or parked so as to occupy or block designated tiedowns or loading areas, except that temporary parking necessary for actual loading or unloading of baggage or objects is allowed if no hazard is thus created. Vehicles shall be parked only in designated parking areas. ( )

**02. Domestic Animals.** No person will allow any domestic animal on an airport, taxiway or adjacent camping area without its being on a leash beyond the minimum time necessary for the loading or unloading of such

animal into or from an aircraft without prior approval of the Division. ( )

**03. Livestock.** No person will allow livestock to graze on airport property without permission from the Division. ( )

**04. Domestic Animal Droppings.** No person will allow domestic animal droppings to be left on an airport, a loading area or in an adjacent camping area. ( )

**05. Unattended Objects or Baggage.** No person will place any unattended objects or baggage in a tiedown area when such placement creates a hazard, or restricts aircraft parking in such a way that displaced aircraft create a hazard. ( )

**203. CAMPING, TRASH, AND REFUSE.**

**01. Camping.** No person will camp on an airport except in designated camping areas without prior approval of Division employees. ( )

**02. Camping Limits.** No person is permitted to use a camping area adjacent to an airport for more than fourteen (14) consecutive days, however this time limit may be extended by Division employees when existing camp area vacancies exist. ( )

**03. Fires.** No campfires or open flame camp stoves are allowed within fifty (50) feet of aircraft. ( )

**04. Trash and Refuse.** All persons on an airport shall place their trash, garbage, and refuse in designated containers or shall otherwise remove it from the airport. ( )

**05. Trash Disposal.** No person will deposit their trash on an area adjacent to an airport. ( )

**204. AIRCRAFT FUELING, AGRICULTURAL OPERATIONS, AND HAZARDOUS MATERIAL.**

**01. Fueling Procedures.** Any person performing aircraft fueling on an airport shall obtain and read a copy of the refueling procedures published by the Division and shall conduct fueling in accordance with these procedures. All persons shall comply with any airport restrictions issued by the Division in connection with recognized fire danger conditions. ( )

**02. Aerial Application Operations.** No person will perform aerial spraying, dusting, or other aerial chemical application operations from an airport without making formal application to and receiving an approved operational agreement from the Division. Any person spilling, dumping, or disposing of any hazardous, toxic, or otherwise dangerous or offensive substance on an airport shall be responsible for the full cost of the cleanup, disposal, and administrative costs to the Division necessitated by removal of the substance. ( )

**205. COMMERCIAL OPERATIONS.**

**01. Operational Agreement.** No person will conduct any commercial or business operations from an airport without making formal application to and receiving an approved operational agreement issued by the Division. ( )

**02. Airport Use.** No approved commercial operation on an airport by persons or firms engaged in business shall be deemed to have priority over any public or other commercial use of such airport. ( )

**206. -- 299. (RESERVED)**

**SUBCHAPTER C – RULES GOVERNING COMMERCIAL AND THROUGH-THE-FENCE  
OPERATIONS  
AND HANGAR CONSTRUCTION AT STATE AIRPORTS**



**300. APPLICATION.**

Any individual, company, or corporation wishing to establish any aviation facility, private or commercial, on or adjacent to any state airport shall make formal application to the Idaho Division of Aeronautics that contained, at a minimum, a sketch showing the location of proposed facilities; a description, sketch, manufacturer's brochure, etc. of the proposed facilities; and a description of the operation proposed. ( )

**301. OPERATIONAL AGREEMENT.**

**01. Negotiation and Approval.** Subsequent to Board approval of the application, the Division of Aeronautics will negotiate an operational agreement with the applicant. The terms of the agreement must be approved by the Board prior to ratification of the agreement by any agent of the state. ( )

**02. Information Required.** The agreement will include, but not be limited to, lease fee, term, any operational limitations deemed appropriate, etc. ( )

**302. SAFETY AND ACCESS.**

Aviation safety will be of paramount importance in consideration of any application. Special emphasis will be placed upon developing means of controlling the number of access points for through-the-fence operations, defined as operations which require aircraft to taxi across the airport property boundary. ( )

**303. -- 399. (RESERVED)**

**SUBCHAPTER D – RULES GOVERNING MARKING OF HAZARDS TO AIR FLIGHT**

**400. REQUIREMENTS.**

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

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

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

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

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

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

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

f. The provisions of this Subsection 400.02, do not apply to power poles or structures owned and operated by an electric supplier as defined in Section 61-332A(4), Idaho Code, to facilities used by a federal power marketing agency to serve public utilities or consumer-owned utilities, or any structure whose primary purpose is to support telecommunications equipment, including citizens band (CB) radio towers and all other amateur radio towers. ( )

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

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

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

a. If the proposed object will be more than two hundred (200) feet above ground level at its location. ( )

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

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

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

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

e. If the proposed object is a traverse way which will exceed at least one (1) of the standards listed in Subsections 400.05.a. through 400.05.c. above, after its height is adjusted upward seventeen (17) feet for an Interstate Highway, fifteen (15) feet for any other public roadway, ten (10) feet (or the height of the highest mobile objects that would normally traverse the road) for a private road, twenty-three (23) feet for a railroad, or an amount equal to the height of the highest mobile objects that would traverse a waterway or any other thoroughfare not previously mentioned. ( )

**06. Notice Submittal.** The notice specified in Subsection 400.05 of this rule must be submitted: ( )

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

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

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

**a.** Depict obstructions on aeronautical charts. ( )

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

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

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

**08. Submittal of Notice.** Written notice of intended construction or alteration must be submitted by mail or hand-delivered to the Aeronautics Division Administrator. ( )

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

**401. EXCEPTIONS.**

No person needs to notify the Aeronautics Division Administrator for any of the following construction or alteration: ( )

**01. Shielded.** Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation. ( )

**02. Antennas.** Any antenna structure of twenty (20) feet or less in height except one that would increase the height of another antenna structure. ( )

**03. Air Navigation.** Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device of a type approved by the Aeronautics Division Administrator, the location and height of which is fixed by its functional purpose. ( )

**402. -- 499. (RESERVED)**

**SUBCHAPTER E – RULES GOVERNING RESTRICTION OF FLIGHT  
IN DESIGNATED EMERGENCY AREAS**

**500. GENERAL.**

**01. Level of Flight for Non-Search Pilot.** No aircraft shall willfully fly below one thousand (1,000) feet above ground level over or through any designated search and rescue area, or any designated emergency area unless officially flying as an assigned search pilot in an assigned search area, or authorized by the official Search and Rescue Headquarters, or in direct official support of a designated emergency area. This flight restriction will remain in effect within the designated area until rescinded by the Aeronautics Division Administrator. ( )

**02. Level of Flight for Non-Assistance Persons.** Aircraft not officially involved in rendering emergency assistance to persons and property may not fly below two thousand (2,000) feet above ground level over any emergency area created by fire, flood, earthquake, or other natural disasters. ( )

**501 – 599. (RESERVED)**

**SUBCHAPTER F – RULES GOVERNING AERIAL SEARCH AND RESCUE  
OF LOST AIRCRAFT AND AIRMEN**

**600. SEARCH NOTIFICATION.**

**01. Notification System.** The Department shall maintain a twenty-four (24) hour per day search and rescue notification system. ( )

**02. Notification Sources.** The Department normally receives initial notification of lost, missing, overdue, or suspected downed aircraft from the Federal Aviation Administration flight service station(s), the Air Force Rescue Coordination Center, law enforcement, and/or concerned individuals. ( )

**601. SEARCH INITIATION.**

When notification is received from agencies, or individual(s) which constitute reasonable probability that an aircraft or airman is down, lost, or missing, a search shall be initiated as described in the National SAR Plan, the Department SAR Manual and/or upon mutual agreement between the Department and the BHS. Safety, weather, darkness, and other operational factors may influence the conduct of the search including time of initiation, duration, and suspension. ( )

**602. ORGANIZATION.**

**01. Staff.** The Division of Aeronautics will maintain a qualified staff capable of implementing the state aerial search and rescue plan. ( )

**02. Designated Search Districts.** The Department's Aerial Search and Rescue Manual (Plan) designates six (6) search districts. Within each district one (1) or more qualified District Aerial Search and Rescue Coordinator(s) shall be designated based on knowledge, experience, and training. They, along with other SAR volunteers, will function under the direction of the State Aerial SAR Coordinator. ( )

**603. RESOURCES.**

Normally, state volunteer airmen and their aircraft shall be used for aerial search and rescue. State Division of Aeronautics aircraft and crews may also be utilized. In addition to the use of volunteer airmen and aircraft, the Department may request through and under the direct control of respective county sheriffs, the use/assistance of ground search and rescue agencies, organizations, and/or individual(s). ( )

**604. PROCEDURE.**

**01. Search and Rescue Guideline.** The Department's Aerial Search and Rescue Manual (Plan) shall provide guidelines for effectively conducting aerial search and rescue operations and establish requirements for crew qualification, adequacy of volunteer search aircraft performance, and District Aerial SAR Coordinator qualifications. In order to effectively implement the State SAR Plan, the State Aerial SAR Coordinator may make SAR agreements as necessary with other agencies/organization(s)/individual(s). They may be either informal verbal agreements or they may be formal written documents. Agreements shall provide for the maximum practicable cooperation of such agencies/organization(s)/individual(s) and the use and coordination of facilities committed to SAR missions. Written agreements will normally involve officials of comparable levels in their respective agencies. Written agreements should be as brief as possible, covering only those specific items for which the agreement is deemed necessary. They should not be repetitious or contradictory of matters contained in the National SAR Plan. ( )

**02. District Aerial SAR Coordinators.** The State Aerial SAR Coordinator shall assign District Aerial SAR Coordinators who act under the direction of the State Aerial SAR Coordinator, organizing the volunteer personnel and resources of his assigned search district area for maximum efficiency, safety, and economy. Said District Coordinator may be either a volunteer, state employee or other individual as assigned by the State Aerial SAR Coordinator. ( )

**03. Designations by State Aerial SAR Coordinators.** The State Aerial SAR Coordinator will designate airports of primary operational support as necessary in the aerial search effort. The State Aerial SAR Coordinator may designate Temporary Flight Restrictions (TFR) under Federal Aviation Regulation (FAR) 91.137 as required for safety of search aircraft. Normally the State Aerial SAR Coordinator will function in the Division of Aeronautics facilities but the option to dispatch state coordinator to the airport(s) of primary support, State EOC, or other location as necessary, may be exercised. State Division of Aeronautics aircraft may be used as necessary with state crews or with state pilot in command and volunteer pilot/observer(s). Volunteer aircraft and crews shall be screened by the District Aerial SAR Coordinator for availability, qualification, and willingness to participate in the search. Flight logs and mission records shall be maintained and all pertinent information will be screened and recorded and forwarded to the State Aerial SAR Coordinator at the close of the mission or as requested. ( )

**04. Interstate Coordination.** On some occasions the aerial search and rescue effort may need to extend into bordering states or Canada. Interstate coordination with other states/Canada shall be achieved as necessary by the Department for SAR mission needs. Coordination with other search and rescue organization(s)/individual(s) may be developed as needed or necessary. Such considerations as weather, time, no flight plan, no emergency locator transmitter signals, no availability, or limited search resources near the objective search area(s) may dictate extending Idaho resources into bordering states/Canada. In a like manner, it may sometime become necessary for bordering states/Canada to extend their resources into Idaho. ( )

**05. Funds.** Aerial search and rescue funds shall be used solely in support of aerial SAR efforts. Financial support of aerial SAR volunteers includes, but is not limited to, SAR training, education, equipment, coordinating efforts, communications, and aircraft fuel and oil expenses. ( )

**06. Official Mission Report.** A report shall be made to the State Aerial SAR Coordinator by the District Aerial SAR Coordinator at the termination of daily search activity. The State Aerial Coordinator SAR shall consolidate all necessary report information and relay it to AFRCC. All mission working papers which are accumulated during the course of the search mission will be analyzed for meaningful content upon which to base operational decisions and the final official mission report. ( )

**07. Time Period of Searches.** Aerial searches shall be continued until either successful or until all reasonable leads are exhausted and/or passage of time has drastically reduced the possibility of survival. If search is unsuccessful and all leads have been exhausted, the search may be suspended upon mutual agreement between the Department and the BHS until either new leads are received or conditions have changed which increases the probability of detection. ( )

**08. Completion of Search.** Searches will be closed when the search and rescue objective has been located, the respective county sheriff notified, it is certain that authorized ground personnel gain access to the search objective for positive identification of missing or downed aircraft and assistance to possible survivors, and post mission procedures are completed. ( )

**09. Required Reports.** Upon completion of the mission, all cooperating/participating agencies shall be advised as promptly as possible. News releases shall be made as deemed appropriate by the State Aerial SAR Coordinator. It shall be ascertained that all search aircraft are accounted for. A report of mission activity shall be made to AFRCC. A synopsis of the entire mission shall be developed by the State Aerial SAR Coordinator with the following forms attached to the synopsis: ( )

- a. Search and Rescue Information Sheet (2600). ( )
- b. Search and Rescue Action Report (2601). ( )
- c. Air Search and Rescue Fuel and Oil Record (2602). ( )
- d. Mission Authorization, Personnel Register (2604). ( )
- e. Mission Flight Plan Briefing and Debriefing Log (2605) ( )
- f. Search and Rescue (SAR) Mission Report (2606A). ( )

**10. Final Report.** The synopsis and attachments constitute the final official search and rescue mission report. ( )

**605. -- 699. (RESERVED)**

**SUBCHAPTER G – RULES GOVERNING IDAHO AIRPORT AID PROGRAM**

**700. PROJECT ALLOCATION PRIORITY PRINCIPLES.**

For the discretionary allocation programs priority will be given to: ( )

**01. Aircraft Operations Safety.** Projects involving safety of aircraft operations. ( )

**02. Projects Which Protect Prior Public Investments.** ( )

**03. Federal Funds.** Assuring maximum use and benefit of available federal funds. ( )

**04. Aircraft Landing Projects.** Projects at existing aircraft landing facilities where need is demonstrated. Projects must provide benefits associated with aircraft landing facility utilization on a statewide basis. ( )

**05. Preservation and Acquisition.** The preservation and acquisition of existing aircraft landing facilities in danger of being lost. ( )

**06. Aircraft Landing Development.** The development of new, additional aircraft landing facilities in areas of greatest need: ( )

**a.** Large geographical areas with no “air accessibility.” ( )

**b.** Additional new sites in urban areas where landing sites are rapidly becoming non-existent. ( )

**c.** Recreational area development where land availability is becoming difficult to obtain. ( )

**701. PROGRAM CRITERIA AND LIMITATIONS.**

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

**01. Master Plan.** To be eligible each city, county, airport authority, political subdivision, or public corporation, hereinafter referred to as airport sponsor, should have a master plan or an airport or heliport layout plan that is approved by the Division of Aeronautics. ( )

**02. Face Value Contributions.** Labor and equipment contributions by the airport sponsor may be approved at face value in force-account financial evaluation as matching funds. The following items will not be eligible for force-account contribution: ( )

**a.** Land values previously acquired. ( )

**b.** Previous building construction or improvements. ( )

**c.** Previous State or FAA grants. ( )

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

vicinity of the subject airport. ( )

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

**702. PERCENTAGES OF COST.**

Matching percentages not to exceed the following guidelines, are subject to the approval of the Idaho Transportation Board: ( )

**01. Airport Maintenance and Upgrade Funds (Up to 75%).** Airport sponsors not eligible for Federal funding assistance that have an adjusted service area population of less than five thousand (5,000), may receive up to seventy-five percent (75%) of project cost for maintenance and upgrade of an airport. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided. ( )

**02. Airport Maintenance and Upgrade Funds (Up to 50%).** Airport sponsors not eligible for Federal funding assistance that have an adjusted service area population of five thousand (5,000) or more may receive up to fifty percent (50%) of the cost for maintenance and upgrade of an airport. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided. ( )

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

**04. Maintenance and Safety Supplies Program.** All airport sponsors eligible for funding may apply to participate in the maintenance and safety supplies program. This is part of the discretionary allocation program that provides at no charge or a reduced charge for the following such items: ( )

- a. Runway and taxiway light fixtures, bulbs, and parts; ( )
- b. Rotating beacon fixtures; ( )
- c. Windsocks, windsock frames and standards; ( )
- d. Tie-down chain sets; ( )
- e. Utility light bulbs; and ( )
- f. Taxiway reflectors. ( )

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

**703. GRANTED ALLOCATION ITEMS.**

Allocations may be granted for the following items: ( )

**01. Development of Required Airport Planning, Land Ownership, Airspace, Land Use Compatibility, and Land Use Zoning Documents.** ( )

- 02. Land Acquisition for Development and Improvement of Aircraft Landing Facilities. ( )
- 03. Grading and Drainage Necessary for Construction or Reconstruction of Runways or Taxiways. ( )
- 04. Construction or Reconstruction of Runways or Taxiways. ( )
- 05. Acquisition of "Runway Protection Zones" as Defined in Current Regulations of the Federal Aviation Administration. ( )
- 06. Acquisition of Easements through or Other Interests in Airspace as may be Reasonably Required for Safeguarding Aircraft Operations in the Vicinity of an Aircraft Landing Facility. ( )
- 07. Removal of Natural Obstructions from Runway Protection Zones. ( )
- 08. Installation or Rehabilitation of "Segmented Circle Airport Marker Systems" as Defined in Current Regulations of the Federal Aviation Administration. ( )
- 09. Installation or Rehabilitation of Runway, Taxiway, Boundary, or Obstruction Lights, Together with Directly Related Electrical Equipment. ( )
- 10. Erection or Rehabilitation of Appropriate Security Fencing Around the Perimeter of an Aircraft Landing Facility. ( )
- 11. Grading and drainage necessary to provide for parking of transient general aviation aircraft. ( )
- 12. Air Navigation Facilities. ( )
- 13. Such Other Capital Improvements as may be Designated by the Board. ( )
- 14. New Building Construction of Public Use Facilities such as Storage Hangars, Pilot Lounge, Rest Rooms, etc., that are Owned by the Airport Sponsor. ( )

**704. AIRPORT SPONSOR ELIGIBILITY.**

The Idaho Airport Aid Program is available only to public entities that own or lease and operate a landing facility that is open to the public without use restrictions. Allocation may be made only on facilities that are not under exclusive lease or monopoly control of private individuals or corporations. The Idaho Airport Aid Program consists of grants, small projects, and maintenance and safety supplies. The grants (for scheduled projects) and small projects (for unscheduled or emergency projects) are available to municipal entities such as a city, county, airport authority, political subdivision, or public corporation, hereinafter referred to as the airport sponsor, but not to facilities operated by divisions of the state of Idaho or the Federal government. The maintenance and safety supplies are available to all public entities that own or lease and operate a landing facility that is open to the public without use restrictions. ( )

**705. APPLICATIONS FOR AID.**

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

**02. Completed Applications.** Each project application submitted for funding consideration from airport sponsors that are eligible for Federal funding assistance will consist of a full and complete copy of the federal application for assistance. ( )



**03. Via Written, Telephone, or Electronic Request.** Each request for participation in the maintenance and safety supplies program or the small projects program must be made through written, telephone, or electronic request. ( )

**04. Legislative Support and Consideration.** Projects deemed by the Board to require special legislative appropriations will be submitted for legislative support and consideration. ( )

**706. IAAP IMPLEMENTATION METHOD.**

**01. Calculation of Adjusted Service Area Population.** Upon collecting the most recent Census Data, calculate the Service Area Population (SAP) for all eligible airports. Relative to Community Airports, reduce the SAP, of the Community Airport, by the amount of population overlying the Community SAP by the population of a 'more developed' airport. The remainder is the amount used to calculate the Adjusted Service Area Population (ASAP) of the Community Airport. ( )

**02. Project Prioritization.** Each project gets a priority value based upon number of based aircraft, purpose of the project, component of the airport of the project, pavement condition index (number) of the project and age of the most recent plan. Determine the values for each of the above element and calculate the priority number of each project for future use. ( )

**03. Community Airport Five-Year Funding Cycle.** Each Community Airport gets ranking number by based aircraft, adjusted service area population and number of IAAP grants accepted. Assign the value to each airport and list such that there are five groups identified for funding in each of the next five years. ( )

**04. Selection of Eligible Projects.** The FAA, through the ISCIP process, identifies the NPIAS airport projects. Aeronautics lists each community airport project by priority value for the current year. ( )

**05. Selection Guidelines for Projects.** A set of guidelines directs the selection and order of projects. These guidelines allow latitude in selection of projects to create a 'level playing field.' ( )

**06. Allocation of Funding for Projects.** Aeronautics developed a five-step process to allocate funds to each project. The process builds funding, for each project, through each step until almost all available funds are allocated. ( )

**07. Appendix for Aeronautics Advisory Board and Idaho Transportation Board Approval.** Upon the completion of the above six items, an annual appendix is compiled, for use by the AAB, to review, modify and approve the program. Aeronautics modifies the appendix, as directed, and presents it to the ITB for final review, approval, and funding. ( )

**707. -- 999. (RESERVED)**

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.02.03 – RULES GOVERNING VEHICLE DEALER’S PRINCIPAL PLACE OF BUSINESS

DOCKET NO. 39-0203-1901

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 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.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**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, and Sections 49-1608B and 49-1608F(9), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change clarifies the appropriate procedures for the Idaho Consumer Asset Recovery (ICAR) Board and Department staff when tasked with determining the outcome of claims brought forth for payout from the ICAR fund. It also defines “actual loss,” an undefined term which serves as the basis in determining payout amounts which are referenced in section 49-1608E, Idaho Code, and describes appeal procedures and judicial review.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 284-287](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

Dated this 20th day of November, 2019.

Ramón Hobdey-Sánchez  
Governmental Affairs Project Manager  
Idaho Transportation Department  
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**THE FOLLOWING NOTICE PUBLISHED WITH  
THE TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is August 22, 2019.

**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 & 49-201, Idaho Code, and Sections 49-1608B & 49-1608F(9), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2019.

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 clarifies the appropriate procedures for the Idaho Consumer Asset Recovery (ICAR) Board and Department staff to follow when tasked with determining the outcome of claims brought forth for payout from the ICAR fund. It also defines "actual loss," a previously undefined term that serves as the basis for determining payout amounts that are referenced in Section 49-1608E, Idaho Code, and describes appeal procedures and judicial review.

**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:

These rule changes are needed to address current outstanding actions as there are existing court claims that need immediate action. This rule change provides the direction and clarity needed for decisions to be made and citizens to be served.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted formally via the publication of a "Notice of Intent to Promulgate Rules - Negotiated Rulemaking;" however, the Department did communicate with hundreds of Idaho dealers and also held an open, public meeting on July 16, 2019 from 4pm-6pm (MT), in which the Department received comments and input from stakeholders. Therefore, this rulemaking did include public involvement. Additionally, this rulemaking confers a benefit to Idaho consumers.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

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 Wednesday, October 23, 2019.

Dated this 30th day of August, 2019.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0203-1901

**39.02.03 – RULES GOVERNING VEHICLE DEALER'S PRINCIPAL PLACE OF BUSINESS  
AND CLAIMS TO THE IDAHO CONSUMER ASSET RECOVERY FUND**

***(BREAK IN CONTINUITY OF SECTIONS)***

**001. TITLE AND SCOPE.**

**01. Title.** This rule **will be** titled IDAPA 39.02.03, "Rules Governing Vehicle Dealer's Principal Place of Business **and Claims to the Idaho Consumer Asset Recovery Fund.**" ( )

**02. Scope.** This rule clarifies terms used in the definition of "principal place of business" and provisions regarding these terms **and payment of claims from the Idaho Consumer Asset Recovery Fund.** ( )

***(BREAK IN CONTINUITY OF SECTIONS)***

**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. (3-29-92)

**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 **will** 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. ( )

**b.** The ICAR fund fee **will** 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. ( )

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

**06. Declared Business Hours.** 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. 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. (3-25-16)

**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 will 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 will be reinstated or issued. ( )

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

**200. IDAHO CONSUMER ASSET RECOVERY FUND CONTROL BOARD ADMINISTRATION.**

**01. Quorum.** A majority of the members of the Idaho Consumer Asset Recovery Control (ICAR) Board established pursuant to Section 49-1608C, Idaho Code, constitutes a quorum. A quorum is required for voting on any ICAR claims. The ICAR Board chairman presides over ICAR Board meetings. The ICAR Board operates in compliance with Idaho open meeting laws. ( )

**02. Voting.** All members of the ICAR Board constituting the quorum are entitled to vote in consideration of any payment of a claim pursuant to Section 49-1608F, Idaho Code. ( )

**03. Actual Loss or Damages.** As provided for in Section 49-1608E, Idaho Code, "actual loss or damages", means: The total cost to the purchaser, as set forth in a final judgement, of the loss directly resulting in a violation, by a dealer, of the provisions of Title 48, Chapter 5 or Title 49, Chapter 5 or Section 49-1418, Idaho Code; including such things as repairs, inspections and loss of resale value. The term includes the attorney fees and costs in bringing suit against the dealer, and includes pre-judgement, but not post-judgement interest. "Actual Loss or Damages" shall not include such things as treble damages, expectation damages nor consequential damages resulting from dealer fraud. ( )

**04. Complete and Complaint Claims.** All ICAR claims will be initiated by filing the complete claim with the Idaho Transportation Department DMV Administrator. When a proper ICAR claim has been received, staff will review the claim for completeness and compliance with these rules and the provisions of Title 49, Chapter 16, Idaho Code. If the claim is complete and in compliance with statute and these rules, the ICAR Board will send notification per Section 49-1608F(5), Idaho Code, to the subject vehicle dealer with a demand that the dealer satisfy the judgement within thirty (30) days. ( )

**a.** Should the dealer fail to satisfy the judgment within thirty (30) days of notice from the ICAR Board, staff will provide the ICAR Board and the claimant a staff-recommended amount of the claim. If the claimant agrees with the staff-recommended payment amount, the ICAR Board will issue a final order either adopting or rejecting the staff recommended claim payment amount. ( )

**b.** Should the claimant disagree with the proposed amount to be paid on the claim, the claimant may request an administrative hearing under the provisions of Title 67, Chapter 52, Idaho Code, within 10 business days of receipt of notification. The department will appoint a qualified hearing officer to hear the claim, take testimony and

review evidence; and issue findings of fact, conclusions of law and provide a recommended order. ( )

**c.** Upon receipt of the recommended order from the hearing officer, the ICAR Board will issue a final order either adopting or rejecting the hearing officer's recommendation of the claim payment amount. ( )

**d.** Final orders of the ICAR Board may be subject to judicial review under the provision of Title 67, Chapter 52, Idaho Code. ( )

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

**300. PENALTIES.**

A dealer violating this rule is subject to license suspension for a period not to exceed six (6) months. ( )

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

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

DOCKET NO. 39-0222-1901

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 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.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**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, and Sections 49-434 and 49-439, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change will clarify and update installment payment arrangements for commercial vehicle customers registering in Idaho. It also provides online methods for obtaining commercial vehicle registrations from the Department. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to 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 October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 288-292](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

Dated this 20th day of November, 2019.

Ramón Hobdey-Sánchez  
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**THE FOLLOWING NOTICE 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, Idaho Code, and Sections 49-434 & 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 October 16, 2019.

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 will clarify and update installment payment arrangements for commercial vehicle customers registering in Idaho. It also provides online methods for obtaining commercial vehicle registrations from the Department. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket Number 39-0300-1901OM. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 265-266](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

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 Wednesday, October 23, 2019.

Dated this 29th day of August, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0222-1901**



**010. DEFINITIONS.**

- 01. Combination of Vehicles.** A tractor or truck tractor and one (1) or more trailers and/or semitrailers. (11-20-91)
- 02. Customer.** The individual or entity that is registering/permitting the vehicle. The following terms; customer, individual, company or registrant are interchangeable in this rule. (3-19-07)
- 03. Insufficient Funds (ISF).** ISF will be the abbreviation as it pertains to checks written on personal and/or business checking accounts without sufficient funds to cover the check, for payment to the department. (3-19-07)
- 04. Non-Reducible Load.** Defined in IDAPA 39.03.01, Rules Governing Definitions **Regarding Special Permits.** ( )
- 05. Probable Cause.** Information sufficient to create a reasonable belief that the registrant of a motor vehicle(s) has either not paid fees due or has under reported miles traveled or has underpaid fees due. (3-19-07)
- 06. Quarterly Report.** The form for registrants to report the laden miles traveled on Idaho highways during the preceding three (3) months when transporting non-reducible vehicles/loads under annual overweight/oversize permits. (3-19-07)
- 07. Revocation of Registration.** The termination of a registrant's vehicle registrations and authority to operate on Idaho highways for failure to comply with requirements specified by the Department and Idaho Code. (3-19-07)
- 08. Registrant.** A person, firm, or corporation in whose name a vehicle or vehicles are registered, with an Idaho account number assigned by the department. (3-19-07)
- 09. Road Use Fee.** The fee per mile paid for non-reducible vehicles or combinations of vehicles hauling non-reducible loads. The fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight, in addition to the registration fee. (3-19-07)
- 10. Suspension of Registration.** The temporary withdrawal of a registrant's vehicle registrations and authority to operate on Idaho highways for failure to comply with requirements specified by the department and Idaho Code. (3-19-07)
- 11. Third-Party Checks.** Checks payable to one entity, and endorsed over to another entity for payment. (3-19-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

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

- 01. Quarterly Reporting Forms Issued.** The department will **generate an online** quarterly report form for each valid annual overweight/oversize permit issued to them. **Customers can choose to opt-in and receive a printed form via mail.** ( )
- 02. Use of Quarterly Reporting Form.** The customer is required to report each quarter's information on the form provided **online or on a Department printed copy that will be mailed** on or before the due date specified on the quarterly report form, even when reporting zero (0) miles traveled. ( )
- a.** If the customer does not receive a quarterly report form **or report their information online**, it is the

customer's responsibility to notify the department allowing adequate time to submit the report before the due date.

( )

**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. (3-25-16)

**d.** Quarterly reports not submitted will result in the account being suspended. (3-25-16)

**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. (3-25-16)

**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. (3-25-16)

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

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

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

**200. INSTALLMENT PAYMENTS FOR COMMERCIAL VEHICLE REGISTRATION.**  
The department offers a Payment Plan for registrants in compliance with Sections 49-434, Idaho Code. (3-19-07)

**01. Requirements to Participate in Installment Payments.** (3-19-07)

**a.** Participant must sign participation contract agreement. (3-19-07)

**b.** Only Full Fee and Idaho IRP registration fees are included in the payment plan. Other jurisdictions' IRP fees shall not be included. (3-19-07)

**c.** Only full annual registration fees shall be included in payment plan. Registrations for less than one full year shall not be included. (3-19-07)

**d.** Vehicles not registered within thirty (30) days after the previous year registration has expired shall not be eligible for the installment payment option. Submitted applications for registration that have been invoiced, but not paid for, by the **last day of the registration effective month** shall not be eligible for the installment payment option. ( )

**e.** Installment contract requirements do not provide opportunity for registrant to opt out of any remaining installment payments. The balance of the payment plan shall continue to be paid even if the truck is not being operated. (3-19-07)

**f.** If registrant meets the criteria in Section 300 of this rule, the prorated portion of the Idaho fee shall be credited toward the installment plan or refunded if the plan has been paid in full. (3-29-10)

**g.** Registrant shall not participate in installment payment plan if the registrant's account has previously been suspended as stated in Subsection 200.06 of this rule. (3-29-10)

**h.** The contract shall stipulate the payment periods and the installment **payment vouchers** shall stipulate the due dates of each subsequent payment. ( )

**i.** An installment payment plan fee of fifty dollars (\$50) shall be required and collected at the time of setup for each installment payment plan created. (3-29-10)

**02. Billings, Payments and Due Dates of Installment Plan.** (3-19-07)

**a.** The department shall upon acceptance of the contract by the registrant, receive one-quarter of the annual registration fee along with the installment payment plan fee, and then shall bill the registrant for three (3) equal installments based upon the previously set payment periods outlined in the contract, which are due by the end of the third, sixth, and ninth months after the effective date of the registration. (3-29-10)

**b.** **Installment payment vouchers will be provided with the initial invoice.** ( )

**c.** US Postal Service postmark shall be used to determine if payment is received on time. If the envelope is postmarked on or before the last day of the month, the payment shall be considered "on time." (3-19-07)

**d.** If the last day of the month falls on a Saturday, Sunday or legal holiday, the next business day shall be considered the due date. (3-19-07)

**e.** **Failure to retain provided payment vouchers** does not relieve the burden of the registrant to pay the installment amount by the due date. ( )

**03. Failure to Pay Installment Payment by Due Date.** (3-19-07)

**a.** The department shall send out courtesy pre-suspension notices approximately five (5) days after the due date to registrants who have failed to remit payment by the due date printed on the quarterly billing. (3-29-10)

**b.** The pre-suspension letter shall contain a late penalty fee of ten percent (10%) of the amount due and an additional one percent (1%) for each month or portion of a month that the payment is past due. (3-19-07)

**c.** Registrant shall pay installment amount portion that is due, plus assessed penalties and interest. (3-19-07)

**04. Suspension of Registrant's Account Due to Non-Payment of Payment Plan.** Approximately two (2) weeks after pre-suspension notices are mailed to the registrant, the department shall suspend accounts of registrant's that have failed to remit installment payment and/or interest and penalty. (3-19-07)

**05. Reinstatement Fee for Payment Plan Registration.** (3-19-07)

**a.** A forty dollar (\$40) reinstatement fee shall be applied to all payment plan accounts that have been suspended. (3-19-07)

**b.** Registrant must pay quarterly payment portion, penalty and interest, if applicable, and reinstatement fee before suspension shall be cleared from account. (3-19-07)

**06. Repetitive Suspensions Result.** (3-29-10)

**a.** After the registrant's account has been suspended for delinquent installment payments two (2) or more times, the registrant shall not be allowed to participate in future payment plan programs unless; (3-29-10)

**i.** Customer has twelve (12) consecutive months of no suspensions related to the account starting from the month the account is cleared; and (3-29-10)

ii. Customer requests in writing to the department to participate in future installment payment plans and will be allowed to do so. (3-29-10)

**(BREAK IN CONTINUITY OF SECTIONS)**

**602. CREDIT CARD PAYMENTS.**

The department will accept only Visa, Discover, American Express, or Mastercard for any fees due or purchases from the department. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**900. APPEAL PROCEDURE.**

**01. Filing of Appeal.** A registrant wishing to contest a penalty or suspension of a registration or an account may file an appeal within ten (10) days of receipt of the notice. (3-19-07)

**02. Delivery of Appeal.** The appeal must be either hand delivered or mailed to Compliance Manager, Idaho Transportation Department, P.O. Box 7129, Boise, Idaho 83707-1129. ( )

**03. Delivery of Decision.** A copy of the final decision in response to the request will be sent to the registrant. (3-19-07)

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.02.42 – TEMPORARY VEHICLE REGISTRATION WHEN PROOF OF OWNERSHIP IS INSUFFICIENT

DOCKET NO. 39-0242-1901

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 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.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**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:

This rule change removes a requirement to sign an affidavit in the presence of the county assessor/deputy assessor. The change allows a second type of title (conditional title) to be issued when an applicant cannot meet standard titling requirements. It also removes redundant and outdated sections/language. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to 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 October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, 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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, please contact Chris Fisher, DMV Program Specialist, at (208) 334-8167.

Dated this 20th day of November, 2019.

Ramón Hobdey-Sánchez  
Governmental Affairs Project Manager  
Idaho Transportation Department  
3311 W. State Street  
P.O. 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 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, not later than October 16, 2019.

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 a requirement to sign an affidavit in the presence of the county assessor/deputy assessor. The change allows a second type of title (conditional title) to be issued when an applicant cannot meet standard titling requirements. It also removes redundant and outdated sections/language. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 259-260](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Chris Fisher, DMV Program Specialist, at (208) 334-8167.

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 Wednesday, October 23, 2019.

Dated this 30th day of August, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0242-1901**

**39.02.42 – RULES GOVERNING CONDITIONAL VEHICLE REGISTRATION  
WHEN PROOF OF OWNERSHIP IS INSUFFICIENT**

**000. LEGAL AUTHORITY.**

This rule is adopted under the authority of Sections 49-501, 49-507 and 49-523, Idaho Code. (12-26-90)

**001. TITLE AND SCOPE.**

**01. Title.** This rule is cited as IDAPA 39.02.42, *Rules Governing Conditional* Vehicle Registration When Proof of Ownership is Insufficient. ( )

**02. Scope.** The purpose of this rule establishes conditional vehicle registration when the applicant does not have sufficient proof of ownership. This rule provides operating privileges for a specific time period and does not apply to Idaho licensed dealers, non-residents of Idaho; or owners and/or operators of non-Idaho based commercial vehicles operated in interstate commerce under the various proportional registration plans or agreements with other states of which Idaho is a participant. ( )

**002. ADMINISTRATIVE APPEALS.**

Administrative appeals under this chapter are governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ( )

**003. -- 099. (RESERVED)**

**100. GENERAL PROVISIONS FOR INSUFFICIENT PROOF OF OWNERSHIP INCLUDES.**

**01. Vehicle Record.** The vehicle for which record of ownership is unavailable; (12-26-90)

**02. Title.** The applicant does not have the title from the previous owner; (12-26-90)

**03. Release of Interest.** The previous owner of record has not released interest in the title; (12-26-90)

**04. Bill of Sale.** The possessor has the unreleased title but does not have a bill of sale to support transfer of ownership; (12-26-90)

**05. Vehicle Identification Number.** The title vehicle identification number (VIN) and the VIN on the vehicle do not match (except for obvious typographical errors); or (12-26-90)

**06. Documentation for Component Part.** Component parts of a homemade, reconstructed or specially constructed vehicle cannot be documented. (12-26-90)

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

**200. PROCEDURE.**

**01. Conditional Registration.** “Registration Only” (conditional registration until titling requirements are met) may be processed for a one (1) year period without benefit of title. “Registration Only” will not be issued on vehicles with altered VINs, vehicles confirmed as stolen or vehicles where there is a recorded and unpaid lien. ( )

**02. Conditional Registration Procedure.** “Registration Only” procedure is as follows: (12-26-90)

a. VIN Inspection: The vehicle must be inspected by an agent of the county assessor’s office or a city,

county or state peace officer. The inspecting officer will verify the identification number and provide the applicant with a signed inspection form containing the vehicle description, other pertinent information and recommendations. If the VIN has been altered or is missing, the officer may ask for the assistance of a motor vehicle investigator before issuing the VIN inspection. (12-26-90)

**b.** Indemnifying Affidavit. The “Registration Only” applicant **will** complete an indemnifying affidavit explaining how and where the vehicle came into **the applicant’s** possession, and why proper documentation is not available. The indemnifying affidavit must be signed, and fully indemnify and save harmless the department. ( )

**c.** Registration of the Vehicle: The vehicle **may** be registered for one (1) year. The title block of the registration document will show “Reg Only” in bold letters. The applicant must obtain adequate proof of ownership prior to the **expiration** of the registration period. The one (1) year “Registration Only” period **will** not be extended. ( )

**d.** The county **will** hold the VIN inspection and the indemnifying affidavit in file until the applicant complies with requirements in Subsection 200.04. ( )

**03. Applicant Responsibility.** By the **expiration** of the “Registration Only” period, the applicant must present a properly executed title and bill of sale for the vehicle or apply for a bonded **or conditional** title. ( )

**04. Action by the County Assessor.** When the applicant has complied with Subsection 200.03, the county assessor **will pull** the VIN inspection and indemnifying affidavit from **their** file; prepare an Application for Title; and submit the application form with the title, bill of sale, indemnifying affidavit and VIN inspection for title processing. ( )

**05. Proof of Ownership.** If the applicant cannot prove ownership within the one (1) year “Registration Only” period, no further registration (permanent or temporary) will be issued until after the title requirement is met. (12-26-90)

**201. -- 999. (RESERVED)**



## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.02.75 – RULES GOVERNING NAMES ON DRIVERS' LICENSES AND IDENTIFICATION CARDS

DOCKET NO. 39-0275-1901

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 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.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**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.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change modifies language in order to simplify name structure in cases of marriage and divorce and also removes a specific requirement for the order of a hyphenated last name for the purposes of issuing driver licenses and identification cards. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to 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 October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 296-299](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

Dated this 20th day of November, 2019.

Ramón Hobdey-Sánchez  
Governmental Affairs Project Manager  
Idaho Transportation Department  
3311 W. State Street  
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**THE FOLLOWING NOTICE 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, not later than October 16, 2019.

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 modifies language in order to simplify name structure in cases of marriage and divorce and also removes a requirement for the specific order of a hyphenated last name when issuing driver licenses and identification cards. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 261-262](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

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 Wednesday, October 23, 2019.

Dated this 30th day of August, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0275-1901**

**200. CRITERIA.**

**01. Legal Name.** The name on the certified original birth certificate will be used unless a name changes due to: (3-29-12)

- a. Marriage; (5-13-91)
- b. Divorce; or (5-13-91)
- c. Court Order. (5-13-91)

**02. Stepparents' Name.** An applicant is not allowed to use a stepparent's last name, except by court order or other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (7-1-96)

**03. Driver's License and Identification Card Names.** The name printed on the driver's license or identification card will be maintained in the Idaho Transportation Department records in the following order: (1) Last name, (2) First name, (3) Middle name, (4) Designator (if applicable (see Subsection 200.04)). An applicant may not have a driver's license and an identification card in different names. An applicant may add a middle name by providing a certified original copy of the applicant's: (3-29-12)

- a. Birth Certificate; (3-29-12)
- b. Court Order; or (3-29-12)
- c. Divorce Decree. (3-29-12)

**04. Designations of Names.** The designations of I, II, III, etc., will become first (1st), second (2nd), third (3rd), etc., and will appear after the middle name. The designators of JR and SR (no periods allowed) will be permitted and will appear after the middle name. The JR and SR designators will be permitted only if there is proof that the other individual exists, by way of an original certified copy of a birth certificate. (7-1-96)

**05. Married Applicant's Name.** (3-29-12)

a. A married applicant is permitted to use **to use either their birth last name or the birth last name of their spouse** as the last name or as the middle name, or may hyphenate **their current last name with their spouse's last name** to form the last name. In no case under any of these stated options shall any applicant have more than one (1) hyphen in **their** last name. ( )

b. Married applicants **may** choose to use different hyphenated **last** names. ( )

c. Married applicants who choose to have the same hyphenated last name may hyphenate their **last** names **in any order**. ( )

d. Married applicants who already have hyphenated last names may: (3-29-12)

i. Use the hyphenated name of **their spouse or retain their own hyphenated name**; or ( )

ii. Combine part of **their own** hyphenated name and part of the hyphenated name of **their spouse**. ( )

e. An applicant who is established in department records with a hyphenated last name due to marriage and wants to drop the first part or the second part of the hyphenated name must provide, as required by the department, the following: (3-29-12)

- i. A certified copy of a birth certificate; and/or (3-29-12)
  - ii. A certified copy of a marriage certificate; and/or (3-29-12)
  - iii. A certified copy of a divorce decree; and/or (3-29-12)
  - iv. A certified copy of a death certificate. (3-29-12)
- 06. Divorced Applicant's Name.** A divorced applicant who wants to use **their** original **birth last** name, or a surname from a previous marriage, but does not have a divorce decree indicating the new name, is allowed to submit the following documents to the County Sheriff or the Idaho Transportation Department: ( )
- a. Original certified copy of the birth certificate showing the original **last name**; or ( )
  - b. Original certified copies of the marriage certificate and the divorce decree, as evidence to change the name. (3-29-12)
- 07. Applicant's First Name.** An applicant is not allowed to change **their** first name except by court order. ( )
- 08. Common Law Marriage.** Common law marriages created prior to January 1, 1996 will, for the purposes of this rule, be treated as a valid marriage. An affidavit of agreement is required, which includes: (7-1-96)
- a. The signatures of both the husband and the wife; (5-31-91)
  - b. The date they became married under common law; and (5-13-91)
  - c. Other documents verifying the marriage (subject to the approval of the Idaho Transportation Department). (5-13-91)
- 09. Change of Name on Record.** Once a name is established in the Idaho Transportation Department records, a court order, marriage license, or divorce decree will be required to change the name and record. (3-29-12)
- 10. Titles or Nicknames.** An applicant is not allowed to use titles or nicknames. (7-1-96)
- 201. -- 299. (RESERVED)**
- 300. PROCEDURES.**
- 01. Verification of Name.** First-time applicants for a driver's license or identification card must provide the County Sheriff's issuing office with one (1) of the following in order to verify their name: (5-13-91)
- a. Original certified copy of the birth certificate; (7-1-96)
  - b. Court order; (5-13-91)
  - c. Original certified copy of the marriage license; ( )
  - d. Divorce decree (if applicable); ( )
  - e. Driver's license from another state or country that is current or if expired, has been expired for less than five (5) years; **or** ( )
  - f. **A valid, unexpired passport.** ( )
- 02. Surrendering Driver's License or Identification Card.** Applicants for license or identification card renewals must surrender the previous driver's license or identification card. Name changes are allowed if the

criteria in Section 200 are met.

(7-1-96)

**03. Surrendering Duplicate Driver's License or Identification Cards.** Applicants for duplicate drivers' licenses or identification cards must surrender the previous driver's license or identification card (if applicable). Name changes are allowed if the criteria in Section 200 are met.

(7-1-96)

**04. Document Approval by the Department.** Other documents may be accepted to change a name, on approval by the Idaho Transportation Department.

(5-13-91)

**IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT**  
**39.02.76 – RULES GOVERNING DRIVER'S LICENSE RENEWAL-BY-MAIL**  
**AND ELECTRONIC RENEWAL PROCESS**

**DOCKET NO. 39-0276-1901**

**NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE**

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 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.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**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, and Sections 49-318, 49-319, 49-2444 and Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change modifies language to offer applicants the ability to apply for a renewal or replacement driver license or identification card electronically, making it easier to do business with the Department's DMV and as a result, reduces wait times and foot traffic in county driver license offices by providing a more convenient alternative. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to 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 October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 300-303](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

Dated this 20th day of November, 2019.

Ramón Hobdey-Sánchez  
Governmental Affairs Project Manager  
Idaho Transportation Department  
3311 W. State Street  
P.O. Box 7129  
Boise, ID 83707-1129  
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**THE FOLLOWING NOTICE 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, Idaho Code, and Sections 49-318, 49-319, & 49-2444, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2019.

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 modifies language to offer applicants the ability to apply for a renewal or replacement driver license or identification card electronically, making it easier to do business with the Department's DMV and as a result, reduces wait times and foot traffic in county driver license offices by providing a more convenient alternative. This rulemaking effort is in alignment with the Governor's Red Tape Reduction Act, because it removes unnecessary language within administrative rule and confers benefits to customers.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 263-264](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474.

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 Wednesday, October 23, 2019.

Dated this 30th day of August, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0276-1901**

**39.02.76 – RULES GOVERNING DRIVER'S LICENSE AND IDENTIFICATION CARD  
RENEWAL-BY-MAIL AND ELECTRONIC RENEWAL AND REPLACEMENT PROCESSES**

**000. LEGAL AUTHORITY.**

In accordance with Sections 49-201, 49-318, 49-319(10), and 49-2444, Idaho Code, the Idaho Transportation Board adopts the following rule to establish a process that may allow Idaho residents to renew or replace their drivers' licenses and identification cards by mail or electronically. ( )

**001. TITLE AND SCOPE.**

**01. Title.** This rule is titled IDAPA 39.02.76, "Rules Governing Driver's License and Identification Card Renewal-by-Mail and Electronic Renewal and Replacement Processes". ( )

**02. Scope.** The purpose of this rule is to establish standards by which drivers' licenses and identification cards may be renewed or replaced by mail or electronically for those individuals whose Idaho credentials are about to expire or requires replacement due to loss or mutilation. The renewal-by-mail and electronic systems are designed to reduce the length of waiting lines at county driver's license offices. ( )

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for this chapter. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

**01. CDL.** Commercial Driver's License. (7-1-96)

**02. Class D Driver's License.** A license issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in Section 49-123, Idaho Code. (7-1-96)

**03. Credential.** Any physical driver license or identification card issued by the department. ( )

**04. Expiration Date.** The date a credential expires. ( )

**05. Identification Card.** A card issued in accordance with Section 49-2444, Idaho Code. ( )

**06. Photo License.** A valid Idaho credential displaying a color photograph of the license holder. ( )

**011. ELIGIBILITY FOR RENEWAL AND REPLACEMENT.**

**01. Eligibility.** An applicant may renew a Class D driver's license or identification card by mail or electronically in lieu of renewing or replacing these credentials in person. Licenses or identification cards renewed by mail or electronically shall only be renewed once in an eight (8) year period, and have a four-year validity period. ( )

**02. License Renewal.** Drivers' licenses may not be renewed by mail or electronically for persons who: ( )

**a.** Hold a driver's license with a "J" restriction (e.g. limited to a five (5) mile driving radius of residence, driving privileges limited to one (1) or two (2) counties, cannot drive without parent for a specified time



- period, etc.); (7-1-96)
- b.** Hold a CDL; ( )
  - c.** Have changes in the information shown on their licenses, other than address changes; (7-1-96)
  - d.** Have any changes in physical, mental, and/or emotional condition, including vision, which may impair the ability to safely operate a motor vehicle; (7-1-96)
  - e.** Have drivers' licenses or driving privileges which are suspended, revoked, canceled, denied, refused, or disqualified; (7-1-96)
  - f.** Are operating on department or court restricted driving permits; (7-1-96)
  - g.** Are required to provide documentation proving lawful presence in the United States; (3-29-12)
  - h.** Are not lawfully present in the United States; (3-29-12)
  - i.** Have a driving record which has been marked for special handling (e.g., verification of identity or date of birth, possible fraud, etc.); (7-1-96)
  - j.** Already have an existing extension; (7-1-96)
  - k.** Wish to add a motorcycle endorsement; (7-1-96)
  - l.** Are under twenty-one (21) years of age for purposes of renewal; ( )
  - m.** Are seventy (70) years of age or older for purposes of renewal; or ( )
  - n.** Have been expired more than one (1) year. ( )
- 03. Identification Card Renewal.** Identification cards may not be renewed by mail or electronically for persons who: ( )
- a.** Have changes in the information shown on their identification cards, other than address changes; ( )
  - b.** Have not been expired more than one (1) year; ( )
  - c.** Are required to provide documentation proving lawful presence in the United States; ( )
  - d.** Are not lawfully present in the United States; or ( )
  - e.** Have a canceled or surrendered status. ( )
- 04. License and Identification Card Replacement.** Any driver's license, including a CDL, or identification card may be replaced by mail or electronically as long as the credential is not expired, and there are no information changes other than address changes and the status is otherwise valid. ( )
- 012. RENEWAL OR REPLACEMENT ELECTRONICALLY OR BY MAIL PROCEDURES.**
- 01. Application Submission.** Credential renewal-by-mail or electronic renewal or replacement applications will be processed when received by mail or electronically. Eligible persons may mail or electronically submit their renewal or replacement application to the department or the driver's license office in their county of residence, or deliver their application in person together with the renewal fee for the same class of credential, pursuant to Sections 49-306, and 49-2444, Idaho Code. ( )

**02. Updating Individual Records.** The county driver's license office or the department will update individual records to reflect the new expiration year, if renewed, and the issue date of the new credential, within three (3) business days after receipt of the completed application form. ( )

**03. If Lost or Destroyed in Mail.** If an individual's credential is lost or destroyed in the mail, a written statement detailing the loss or destruction may be mailed or hand-delivered to the applicant's county of residence or completed electronically. Upon receipt of the letter, the county or the department can issue a no-charge replacement credential to the applicant. ( )

**04. Temporarily Residing Out-of-State.** Individuals temporarily residing out-of-state may apply for a renewal by mail, electronic renewal, or an extension, but not both, in an eight (8) year period. (3-29-12)

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.03.01 – RULES GOVERNING DEFINITIONS REGARDING SPECIAL PERMITS

DOCKET NO. 39-0301-1901

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 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.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**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, and Section 49-1004, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change defines in definitions what a disabled vehicle is, what a snowplow is, and how overhang is measured. These new definitions will add clarity for Department stakeholders and 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 October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 304-308](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

Dated this 20th day of November, 2019.

Ramón Hobdey-Sánchez  
Governmental Affairs Project Manager  
Idaho Transportation Department  
3311 W. State Street  
P.O. Box 7129  
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**THE FOLLOWING NOTICE 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, 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, not later than October 16, 2019.

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 defines in definitions what a disabled vehicle is, what a snowplow is, and how overhang is measured. These new definitions will add clarity for Department stakeholders and customers.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket Number 39-0300-1901OM. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 265-266](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

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 Wednesday, October 23, 2019.

Dated this 29th day of August, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0301-1901**

**010. DEFINITIONS.**

- 01. Accessories.** Additional parts of the single item load that have been removed to reduce width, length or height. (7-1-19)
- 02. Administrative Cost.** The government's cost of processing, issuing and enforcing a permit. (7-1-19)
- 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. (7-1-19)
- 04. Annual.** Twelve (12) consecutive months. (7-1-19)
- 05. Automobile Transporter.** See Section 49-102, Idaho Code. (7-1-19)
- 06. Base Width.** The measurement below the eaves of a manufactured home, modular building, or office trailer. (7-1-19)
- 07. Boat Transporter.** See Section 49-103, Idaho Code. (7-1-19)
- 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, **is** excluded from the definition of a cargo unit. ( )
- 09. Convoy.** A group of two (2) or more motor vehicles traveling together for protection or convenience. (7-1-19)
- 10. Department.** Idaho Transportation Department. (7-1-19)
- 11. Designated Agent.** An employee or relative of the farmer. (7-1-19)
- 12. Disabled Vehicle.** A vehicle unable to complete transportation under its own power. ( )
- 13. Dromedary Tractor.** See Section 49-105, Idaho Code. (7-1-19)
- 14. Economic Hardship.** The loss of a substantial amount of money caused by economic changes. (7-1-19)
- 15. 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. (7-1-19)
- 16. Escort Vehicle.** See Pilot Vehicle. (7-1-19)
- 17. Excess Weight.** Vehicle combinations hauling reducible loads operating on 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 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. (7-1-19)
- 18. 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, that normally haul reducible loads. (7-1-19)

- 19. Extra-Ordinary Hazard.** Any situation where the traveling public’s safety or the capacity of the highway system is endangered. (7-1-19)
- 20. Farm Tractor.** See Section 49-107, Idaho Code. (7-1-19)
- 21. Gross Vehicle Weight.** See Section 49-108, Idaho Code. (7-1-19)
- 22. Heavily Loaded.** Exceeding legal weight or hauling a load that obstructs the driver’s view. (7-1-19)
- 23. Heavy Duty Wrecker Truck.** A motor vehicle designed and used primarily for towing disabled vehicles. (7-1-19)
- 24. Height.** The total vertical dimension of a vehicle above the ground surface including any load and load-holding device thereon. (7-1-19)
- 25. Implement of Husbandry.** See Section 49-110, Idaho Code. (7-1-19)
- 26. Incidentally Operated.** See Section 49-110, Idaho Code. (7-1-19)
- 27. Legal.** In compliance with the Idaho Code on size and weight. (7-1-19)
- 28. 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 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements.” (7-1-19)
- 29. Light Truck.** See Section 49-121, Idaho Code. (7-1-19)
- 30. Longer Combination Vehicle (LCV).** Any combination of a truck-tractor and two (2) or more trailers or semi-trailers that operate on the National System of Interstate and Defense Highways with a gross vehicle weight (GVW) greater than thirty-six thousand two hundred eighty-eight (36,288) kilograms (eighty thousand (80,000) pounds). (7-1-19)
- 31. Manufactured Home.** A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, that, 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 that 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 includes any structure that meets all the requirements of this subsection 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. ( )
- 32. Mobile Home.** A structure similar to a manufactured home, but built to a state mobile home code that existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code) dated June 15, 1975. (7-1-19)
- 33. Modular Buildings.** A facility designed as a building or building section that is constructed to standards contained in the Uniform Building Code (UBC), adopted by Section 39-4109, Idaho Code. (7-1-19)
- 34. Non-Reducible.** Any load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would: (7-1-19)
- a.** Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which

- it was intended; (7-1-19)
- b.** Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or (7-1-19)
  - c.** Require more than eight (8) work hours to dismantle using appropriate equipment. The applicant for a nondivisible load permit has the burden of proof of establishing the number of work hours required to dismantle the load. (7-1-19)
- 35. 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. (7-1-19)
- 36. Office Trailer.** See definition of Manufactured Homes. (7-1-19)
- 37. 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). (7-1-19)
- 38. 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. (7-1-19)
- 39. Overdimensional.** Any vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)
- 40. Overhang.** The distance from the end of the vehicle to the end of its load. ( )
- 41. Overheight.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)
- 42. 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. (7-1-19)
- 43. Oversize.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)
- 44. Overweight.** A single vehicle or a vehicle combination hauling or towing a non-reducible load whose weight is in excess of eighty thousand (80,000) pounds and/or legal axle weights. (7-1-19)
- 45. Overwidth.** A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)
- 46. Pilot Vehicle.** Passenger cars or trucks equipped as specified in IDAPA 39.03.05, "Rules Governing Special Permits – Oversize Non-Reducible." (7-1-19)
- 47. Reducible Load.** A single item or multiple items for transport that could reasonably be repositioned so that the load conforms to legal size and weight dimensions. The determination of ability to reduce 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). (7-1-19)
- 48. 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. (7-1-19)
- 49. Snowplow.** A device intended for the use of removing snow or ice from road surfaces. ( )
- 50. Special Permit.** A permit issued by the Idaho Transportation Department that 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. (7-1-19)

**51. 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. (7-1-19)

**52. 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). (7-1-19)

**53. 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 and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (7-1-19)

**54. 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 and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (7-1-19)

**55. Variable Load Suspension Axle.** See Section 49-123, Idaho Code. (7-1-19)

**56. 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, and drill rigs are examples of vocational vehicles. (7-1-19)

**57. Width.** The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding any appurtenances listed in IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)



## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.03.05 – RULES GOVERNING SPECIAL PERMITS – OVERSIZE NON-REDUCIBLE

DOCKET NO. 39-0305-1901

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 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.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**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, and Section 49-1004, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change clarifies load allowances for standard 53 foot trailers and longer trailers for oversize non-reducible loads for drivers and carriers. Without the addition of the word “multiple” to section 70.03, the law could be read to mean that a load cannot be moved on any trailer bigger than 53’ long. In practicality, that does not work, because generators, transformers, surge tanks, etc. are moved on 70’ to 100’ long trailers due the securement needs of the load.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 309-310](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

Dated this 20th day of November, 2019.

Ramón Hobdey-Sánchez  
Governmental Affairs Project Manager  
Idaho Transportation Department  
3311 W. State Street  
P.O. 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 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, 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, not later than October 16, 2019.

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 clarifies load allowances for standard 53 foot trailers and longer trailers for oversize non-reducible loads for drivers and carriers. Without the addition of the word “multiple” to Subsection 070.03, the law could be read to mean that a load cannot be moved on any trailer bigger than 53’ long. In practicality, that does not work, because generators, transformers, surge tanks, etc. are moved on 70’ to 100’ long trailers due the securement needs of the load.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket Number 39-0300-1901OM. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7 pages 265-266](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

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 Wednesday, October 23, 2019.

Dated this 29th day of August, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0305-1901**

**070. GENERAL OVERSIZE LIMITATIONS.**

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

**02. Practical Minimum Dimension of Load.** Oversize loads shall be reduced to a practical minimum dimension. Except where noted below, permits will not be issued to exceed legal size if the load is more than one (1) unit in width, height, or length that results in them exceeding legal overhang. Additionally, permits shall not be utilized for multiple unit loads that may be re-positioned to meet legal dimensions established in Section 49-1010, Idaho Code. (7-1-19)

**03. Multiple Overwidth Loads on Single or Double Trailers.** Multiple 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. ( )

**04. Overwidth Overhang.** Overwidth loads shall distribute overhang to the sides of the trailer as evenly as possible. (7-1-19)

**05. Oversize.** Special permits may be issued for continuous operation to haul or transport nonreducible loads having specified maximum oversize dimensions 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. (7-1-19)

**a.** Permits for continuous operation, oversize only. (7-1-19)

**i.** 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. 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. (7-1-19)

**ii.** Maximum size of loads or vehicles transported under authority of an annual oversize for black and interstate routes shall be limited to a width of sixteen (16') feet, a height of fifteen feet six inches (15'6"), 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 feet six inches (12'6"). A current Pilot/Escort Vehicle and Travel Time Requirements Map shall accompany such permits for extended operations and is considered to be a part of the permit. ( )

**06. Passing Lane Must Be Provided.** Except for short movements in urban areas, and on routes having very low Average Daily Traffic (ADT), permits will not be issued for a load of such dimension that continuous passage of opposing traffic and frequent passing of following traffic cannot be maintained. Ten (10') feet or more of travelway should be provided for passage of traffic unless there are frequent turnouts, intersections, etc., to provide relief of accumulated traffic to the rear. (7-1-19)

**07. Hazardous Travel Conditions Restrictions.** Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for limitations on travel during hazardous conditions. (7-1-19)

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.03.06 – RULES GOVERNING SPECIAL PERMITS FOR EXTRA-LENGTH/EXCESS WEIGHT, UP TO 129,000 POUND VEHICLE COMBINATIONS

DOCKET NO. 39-0306-1902

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 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.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**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, and Section 49-1004, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule:

This rule change eliminates specifically referenced colors and allows the Department to create maps that are easier to read. It also decreases the number of attachments for permit holders and removes the requirement for rule to be updated each time a route color is changed. These changes will reduce confusion and make it easier for stakeholders and customers by enabling the streamlining of documents to a single source and will eliminate the need for multiple attachments for permit carriers. There was also language modified to bring clarity to the 129,000 pound route request process.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2019, Idaho Administrative Bulletin, [Vol. 19-10, pages 311-314](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

Dated this 20th day of November, 2019.

Ramón Hobdey-Sánchez  
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**THE FOLLOWING NOTICE 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, 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, not later than October 16, 2019.

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 eliminates specifically referenced colors and allows the Department to create maps that are easier to read. It also decreases the number of attachments for permit holders and removes the requirement for rule to be updated each time a route color is changed. These changes will reduce confusion and make it easier for stakeholders and customers by enabling the streamlining of documents to a single source and will eliminate the need for multiple attachments for permit carriers. There was also language modified to bring clarity to the 129,000 pound route request process.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted under Docket Number 39-0300-1901OM. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 265-266](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Lance Green, DMV Permits Program Specialist, at (208) 334-8427.

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 Wednesday, October 23, 2019.

Dated this 29th day of August, 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0306-1902**

**051. – 199. (RESERVED)**

**200. DESIGNATED ROUTES FOR EXTRA LENGTH 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: ( )

**01. Brakes.** All axles shall be equipped with brakes that meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. (7-1-19)

**02. Designated Routes for Vehicle Lengths.** All designated state approved routes for vehicle combinations to operate at designated lengths are identified on the “Designated Extra Length Excess Weight up to 129,000 Pound Map” which is available at the Idaho Transportation Department. ( )

**03. Designated Routes for Vehicle Weight.** 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 Extra Length Excess Weight up to 129,000 Pound Map” which is available at the Idaho Transportation Department. ( )

**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: (7-1-19)

**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. (7-1-19)

**b. Request Review/Analysis Process.** (7-1-19)

**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. (7-1-19)

**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. (7-1-19)

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

**iv.** If the Idaho Transportation Board recommends approval or denial, it shall instruct the Chief Engineer to issue a letter of determination. An adverse person may contest the letter of determination and request a hearing. The hearing will be conducted pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. ( )

**v.** The Chief Engineer or designee will conduct the hearing(s) and make a determination after the hearing(s) are held. Following the determination, the Chief Engineer will issue Findings and a Preliminary Order, hereafter referred to as Preliminary Order. (7-1-19)

**vi.** The Department will notify the requestor of the Chief Engineer’s Preliminary Order and post to the Idaho Transportation Department Web site. (7-1-19)

**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. (7-1-19)

**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. (7-1-19)

## IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

### 39.03.49 – RULES GOVERNING IGNITION INTERLOCK BREATH ALCOHOL DEVICES

DOCKET NO. 39-0349-1901

#### NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Rules Analysis Memo](#)

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2020 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.

Upon legislative approval of this pending rule the amendments made in this docket will overwrite those sections of the reauthorized rule promulgated under Docket No. 39-0000-1900, which will also be filed for review for final approval during the upcoming legislative session.

**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, and Sections 18-8008, 18-8010 and 19-3506, 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 a direct result of the passage of [HB78aa,aaS](#) passed during the 2019 legislative session. This rule change requires the addition of a camera to accompany all ignition interlock devices as well as provides for a diversion program coordinated and run by county prosecuting attorneys. The prosecuting attorney, diversion program administrator or its designee were added as contacts for receiving documentation and notifications. The changes made were driven by industry stakeholders in an effort to create consistency within the industry and among other states.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the July 3, 2019, Idaho Administrative Bulletin, [Vol. 19-7, pages 273-281](#).

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

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, please contact Amy Smith, DMV Business Analyst, at (208) 334-8708.

Dated this 21st day of November, 2019.

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**THE FOLLOWING NOTICE 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, Idaho Code and Sections 18-8008, 18-8010 and 19-3506, 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 17, 2019.

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 is a direct result of the passage of **HB78aa,aaS** passed during the 2019 legislative session. This rule change requires the addition of a camera to accompany all ignition interlock devices as well as provides for a diversion program coordinated and run by county prosecuting attorneys. The prosecuting attorney, diversion program administrator or its designee were added as contacts for receiving documentation and notifications.

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

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

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule is simple in nature as the proposed changes are a direct result of passed legislation during the 2019 legislative session.

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

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, please contact Amy Smith, DMV Business Analyst, at (208) 334-8708.

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 Wednesday, July 24, 2019.

Dated this 7th day of June 2019.

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0349-1901**

**001. TITLE AND SCOPE.**

The rule is titled IDAPA 39.03.49, “Rules Governing Ignition Interlock Devices,” and the purpose of this rule is to establish regulations for certification, installation, repair and removal of ignition interlock breath alcohol devices. ( )

**002. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. Alcohol.** The generic class of organic compounds known as alcohols and, specifically, the chemical compound ethyl alcohol. For the purpose of Ignition Interlock Devices, **all devices will be specific for ethyl alcohol.** ( )

**02. Breath Alcohol Concentration (BAC).** The weight amount of alcohol contained in a unit volume of breath, measured in grams Ethanol/two hundred ten (210) liters of breath. (12-26-90)

**03. Court (Or Originating Court).** The particular Idaho state court that has required the use of an ignition interlock device by a particular individual. ( )

**04. Certification.** The approval process required by the Idaho Transportation Department. (12-26-90)

**05. Department.** The Idaho Transportation Department. (7-1-96)

**06. Device.** An ignition interlock device. ( )

**07. Diversion Program Administer or Designee.** The prosecuting attorney or an individual or business appointed by a prosecuting attorney of any Idaho county, to administer the diversion program established by the prosecuting attorney on their behalf. ( )

**08. Ignition Interlock Device.** An instrument designed to measure the BrAC of an individual *equipped with a camera* and which prevents a motorized vehicle from starting when the BrAC *is greater than or equal to point zero two five (.025).* ( )

**09. Independent Testing Laboratory.** A laboratory facility that is not subject to the control of the manufacturer *or the manufacturer’s representative.* ( )

**10. Interlock.** The state in which a motor vehicle is prevented from starting by a device. (12-26-90)

**11. Lessee.** The person ordered by a court to drive only vehicles that have certified devices installed. (12-26-90)

**12. Manufacturer.** The person, *or organization responsible for the design, construction and production of* the device. ( )

**13. Manufacturer’s Representative.** *A company or corporation registered as a business with the Idaho Secretary of State who is designated by the manufacturer to sell, rent or lease a specific device in the State of Idaho and provide installation, maintenance and removal of the device through the operation of service centers.* ( )

**14. Circumvention.** *To bypass the correct operation of a device by starting the motor vehicle or operating the motor vehicle by any means without first providing a breath test.* ( )

**15. Tampering.** *An attempt to disable, adjust, or otherwise alter the proper operation of a device or camera. “Tampering” does not include disconnecting the handset once the vehicle is turned off.* ( )

**16. Ignition Interlock Waiver Liability.** *If a court grants a driver relief from the requirement of adding*

*an ignition interlock device under the provisions of either Sections 18-8002A, 18-8002 or 18-8008, Idaho Code, the waiver will cover both ignition interlock requirements from the criminal charges and from the civil administrative license suspension. When the Department receives a court order granting the waiver of an ignition interlock requirement, the Department shall not be liable for complying with the court's order, and no cause of action will accrue against the Department for not enforcing the ignition interlock requirement in the civil administrative license suspension under Section 18-8002A, Idaho Code.* ( )

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

**100. CERTIFICATION PROCESS.**

**01. Equipment Standards.** *A device must be produced by a manufacturer who maintains certification to the current International Organization for Standardization (ISO) 9001 Quality Management Systems for aspects related to the design, maintenance and distribution of the device. Written documentation demonstrating compliance with this requirement shall be submitted to the Department by the manufacturer on an annual basis. Additionally, a device must meet or exceed the National Highway Traffic Safety Administration's (NHTSA) model specifications for breath alcohol ignition interlock devices (BAIIDs) as published in the Federal Register/Vol. 78, No. 89/Wednesday, May 8, 2013 and are subject to subsequent standards published by NHTSA. Written documentation from an independent testing laboratory that is an International Organization for Standardization (ISO) 17025 certified testing laboratory performing the tests as specified, will be accepted as proof of meeting or exceeding the NHTSA Model Specifications for BAIIDs. The documentation from the ISO 17025 certified testing laboratory shall include: the name, physical location, mailing address and phone number of the testing laboratory; a description of the tests performed; copies of the data and results of the testing procedures; and the name of the device being submitted for approval.* ( )

**a.** *A manufacturer must report in writing to the Department a material device modification if there is a material change affecting the customer functionality, customer communication or accuracy of the device. Upon written receipt of a material device modification, the Department within thirty (30) days will determine whether written documentation from an independent testing laboratory that is ISO 17025 accredited will be required prior to implementing device usage in Idaho.* ( )

**b.** *Devices that were certified under less stringent IDAPA rules governing BAIID devices or previous model specifications as published in the Federal Register will be grandfathered for use in the state for a period no longer than one hundred eighty (180) days from the effective date of the most recent published device specifications at which time the Letter of Certification for the device will be revoked pursuant to Subsection 100.05 of these rules, and removed in accordance with Subsection 100.07 of these rules.* ( )

**02. Proof of Insurance.** *The manufacturer shall annually provide to the Department proof of insurance with minimum liability limits of one million dollars (\$1,000,000) per occurrence, with three million dollars (\$3,000,000) aggregate total. The liability covered shall include defects in product design and materials, as well as workmanship during manufacture, calibration, installation and removal. The proof of insurance shall include a statement from the insurance carrier that thirty (30) days' notice shall be given to the Idaho Transportation Department prior to cancellation.* ( )

**03. Hold Harmless.** *The manufacturer shall provide to the Department a notarized statement that the manufacturer will be totally responsible for product liability and will indemnify the following from any liability resulting from the device or its installation or use:* ( )

- a.** The state of Idaho; and (7-1-96)
- b.** The court that ordered the installation of the device. (7-1-96)
- c.** The county, its employees and designees administering the program. (7-1-96)

**04. Manufacturer's Reporting Requirements.** *The manufacturer shall provide the Department a description of its installation and monitoring procedures, maintenance technician training program, and set of criteria for monitoring and reporting offenders.* (7-1-96)

**05. Criteria for Certification and/or Revocation.** Upon receipt of *the required documentation from the Manufacturer as set forth in Subsections 100.01 through 100.04 of these rules* the Department shall issue a Letter of Certification for the device. The Letter of Certification shall be valid until voluntarily surrendered by the manufacturer or until revoked by the Department for cause. Reasons for revocation include, but are not limited to:

- a. Evidence of repeated device failures due to gross defects in design, materials and/or workmanship during manufacture, installation or calibration of the device; (12-26-90)
- b. Notice of cancellation of manufacturer's liability insurance is received; or (12-26-90)
- c. Notification that the manufacturer is no longer in business. (12-26-90)
- d. Voluntary request of the manufacturer to remove a device from the certified list; (7-1-96)
- e. Any other reasonable cause to believe the device was inaccurately represented to meet the performance standards; or (7-1-96)
- f. Failure to submit required reports to the Department. (7-1-96)

**06. Notice of Revocation.** Unless necessary for the immediate good and welfare of the public, revocation shall be effective *twenty-one (21)* days after manufacturer's receipt of notice, which shall be sent via certified mail, return receipt requested. A copy of each Notice of Revocation *and final outcome* shall be provided to all originating courts or their designees and lessees utilizing the revoked device with notice to contact the manufacturer for a replacement.

**07. Removal of Revoked Devices.** Upon revocation or voluntary surrender of a certified device, a manufacturer shall be responsible for removal of all like devices from lessees' vehicles. (7-1-96)

a. A manufacturer *will* be responsible for any costs connected with removal of their revoked devices from lessees' vehicles and the installation of certified replacement devices. ( )

b. *The manufacturer must obtain and maintain a bond in the amount of thirty-five thousand dollars (\$35,000). The bond shall inure to the benefit of the State of Idaho and shall be used to reimburse expenses related to the device services incurred by any lessee who is required to equip a vehicle with a device by the State of Idaho because a manufacturer's certification is being refused, suspended, or revoked. The bond must include the following:* ( )

- i. *The bond must be issued by a corporate surety licensed to do business within the State of Idaho;* ( )
- ii. *The surety shall have the ability to cancel the bond and give notice that the bond is cancelled for any reason and shall continue to be liable under the bond until the commissioner of public safety receives notice;* ( )
- iii. *The bond must be executed to the State of Idaho; and( )*
- iv. *The original bond must be filed and held in the Department's office.* ( )

**08. Right to Appeal.** Upon voluntary surrender, *written notice of* or revocation of a Letter of Certification for a manufacturer's device, manufacturers may request a review of *the* revocation. Such request shall be submitted to the Department, in writing, within twenty (20) days of *receiving the written notice of* revocation. ( )

**09. Repository for Letter of Certification.** The Department shall maintain a file of all existing Letters of Certification. ( )

101. -- 199. (RESERVED)

**200. INSTALLATION STANDARDS.**

- 01. Installer.** Device must be installed by a manufacturer or *manufacturer's* representative. ( )
- 02. Unauthorized Persons.** Lessees or other unauthorized persons shall not be allowed to watch the installation *or removal* of the device. ( )
- 03. Security.** Adequate security measures must be taken to prevent unauthorized persons from accessing secured materials (tamper seals, installation instructions, etc.) (12-26-90)
- 04. Installation Instructions.** Each manufacturer shall develop written instructions for installation of *its* device(s). ( )
- 05. Vehicle Condition Screen.** The installer must screen vehicles for acceptable mechanical and electrical condition, in accordance with the device manufacturer's instructions. (12-26-90)
- 06. Mandatory Vehicle Maintenance.** Conditions that would interfere with the function of the device, (e.g. low battery or alternator voltage, stalling frequent enough to require additional breath tests, etc.) must be corrected to an acceptable level. (12-26-90)
- 07. Installation Standards.** Installations must be made in a workmanlike manner, within accordance to accepted trade standards, and according to the instructions provided by the manufacturer. (12-26-90)
- 08. Device Removal Standards.** When a device is removed, the vehicle must be reasonably restored to its original condition. All severed wires must be permanently reconnected and insulated with heat shrink tubing or its equivalent. ( )

201. -- 299. (RESERVED)

**300. DEVICE MAINTENANCE AND REPORTS.**

- 01. Device Examination Schedule.** Each lessee shall have the device examined by a manufacturer or *manufacturer's* representative for correct calibration and evidence of tampering every sixty (60) days, or more often as may be ordered by the originating court, or less frequently, as may be ordered by the originating court. ( )
- 02. Report of Examination.** A report on the results of each check shall be provided to the trial court administrator or designee of the originating court. The report shall reflect what adjustments, if any, were necessary in the calibration of the device, any evidence of tampering *or circumvention*, and any other available information the originating court may order. ( )
- 03. Corrective Action Report.** *Upon request of the originating court, diversion program administrator or their designee* complaints by the lessee shall be accompanied by a statement of the actions taken to correct the problem(s). Reports of the problem(s) and action(s) taken shall be submitted to the originating court or its designee within three (3) business days. ( )
- 04. Additional Report.** *Upon request, an* additional report *will* be provided to the Department on a quarterly basis summarizing all periodic checks ordered by the originating court and all complaints received by the manufacturer from the lessee for each model or type of certified device. These reports shall be categorized by: ( )
- a. Customer error of operation. (12-26-90)
  - b. Faulty automotive equipment other than the device. (12-26-90)
  - c. Apparent misuse or attempts to circumvent the device, causing damage. (12-26-90)

d. Device failure due to material defect, design defect, workmanship errors in construction, installation or calibration. (12-26-90)

**301. DEVICE SECURITY.**

**01. Tampering or Circumvention Precaution.** The manufacturer shall take all reasonable steps necessary to prevent tampering or physical circumvention of the device. ( )

**02. Device Identification.** Each device shall be uniquely serial numbered. All reports to the trial court administrator or designee of an originating court concerning a particular device shall include the name and address of the lessee, the originating court's file number, and the unique number of the device. (7-1-96)

**03. Warning Label.** The manufacturer shall provide a label containing a notice (at least ten (10) point boldface type) on each certified device **which is visible to the lessee at all times** reading: WARNING: ANY PERSON TAMPERING, CIRCUMVENTING, OR OTHERWISE MISUSING THIS DEVICE MAY BE SUBJECTED TO CRIMINAL SANCTIONS. (Section 18-8009, Idaho Code) ( )

**04. Physical Anti-Tamper Security.** (7-1-96)

a. Use unique, easily identifiable wire, covering or sheathing over all wires used to install the device, which are not inside a secured enclosure. (12-26-90)

b. Make all connections to the vehicle under the dash or in an inconspicuous area of the vehicle. (12-26-90)

c. Use unique, easily identifiable tamper seal, epoxy or resin at all openings **and exposed electrical connections for the device** (except breath or exhaust ports). ( )

**05. Personnel Requirements.** Devices must be installed, inspected, tested and maintained by a qualified manufacturer or *manufacturer's* representative. ( )

a. Installers must have the training and skills necessary to install, troubleshoot and check for proper operation of the device, and to screen the vehicle for acceptable *operating* conditions. ( )

b. *Installers* whose functions and duties include installing, calibrating, performing tamper *and circumventions* inspections and reporting duties, should not have been convicted of a crime substantially related to the convicted lessee's violation. This includes, persons convicted of: Driving under the influence (DUI) within the last five (5) years; more than one (1) DUI overall; probation violation; and perjury. ( )

c. For the purposes of this section, "convicted" shall include entering a plea of guilty, nolo contendere, or to have been found guilty or been given a withheld judgment. (12-26-90)

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

**400. MANDATORY OPERATIONAL FEATURES.**

Notwithstanding other provisions of this rule, a certified device must comply with the following: (12-26-90)

**01. Device Setpoint.** The setpoint of each device to interlock when the breath sample is provided *point zero two five (.025) or greater (Section 18-8008(2), Idaho Code)*. The capability to change this setting shall be made secure, by the manufacturer, to prevent unauthorized adjustment of the device. ( )

**02. Camera.** *Every device currently installed in a vehicle must be equipped with a camera that is not located inside the handset and is mounted to the vehicle in such a way to capture a reference photo at the time of installation and a digital image of the driver sitting in the driver's compartment when a breath sample is submitted, refused, or the device is circumvented. The device must store all data, including the image, time, date, and BrAC of the accepted breath sample each time the individual attempts to use the device.* ( )

*a. The device camera must function in all lighting conditions. ( )*

*b. All images and data collected between calibration periods must be stored in the device's data storage system and be downloadable at the time of calibration by the device manufacturer or manufacturer's representative in order to ensure proper record maintenance. ( )*

**401. OTHER PROVISIONS.**

Notwithstanding other provisions of this rule, each manufacturer of a certified device: (12-26-90)

**01. Repair Deadline.** Shall guarantee repair or replacement of a defective device within the state of Idaho within a maximum of forty-eight (48) hours of receipt of complaint. (12-26-90)

**02. Statement of Charges.** *The manufacturer or the manufacturer's representative will* provide the originating court, **diversion program administrator** or its designee, and the lessee a statement of *all device* charges clearly specifying warranty details, purchased cost, and/or monthly lease amount, any additional charges anticipated for routine calibration and service checks, what items (if any) are provided without charge, and under what conditions a lessee is responsible for payment for service calls and/or damage to the device. ( )

**03. Notice of Installation.** Upon installation of each device, the manufacturer or its representative will provide the trial court administrator, **diversion program administrator** or designee of the originating court with a notice of installation that includes the name, address and telephone number of the lessee, the originating court's file number, and the unique number of the device. ( )

**04. Nationwide Service Center Locations.** *Prior to installation, the manufacturer or manufacturer's representative will provide the following* to all lessees: ( )

**a.** A list of all calibration/service locations in the continental United States. The list *will* include the business name, address and telephone number of all locations. ( )

**b.** A twenty-four (24) hour telephone number to call for service support for those who may be traveling outside service areas. (12-26-90)

**05. Statewide Service Center Locations.** *Prior to installation, the manufacturer or the manufacturer's representative will provide the following* to all lessees: ( )

**a.** A list of all calibration/service locations in the state of Idaho. The list *will* include the business name, address and telephone number of all locations. ( )

**b.** *Will* notify the Department of the location, including address, phone number and contact person, of each *service center* in Idaho. ( )

**06. Removal of Device.** *The manufacturer or manufacturer's representative will* advise the originating court, **diversion program administrator** or its designee prior to removing the device under circumstances other than: ( )

**a.** Completion of sentence or other terms of a court order. (12-26-90)

**b.** Immediate device repair needs. (12-26-90)

**09. Substitute Device.** Whenever a device is removed for repair and cannot immediately be reinstalled, a substitute device shall be utilized. Under no circumstances shall a lessee's vehicle be permitted to be driven without a required device. (12-26-90)

**402. REMOVAL PROCEDURES.**

When so notified in writing by the originating court, the manufacturer *or the manufacturer's representative* shall remove the device and return the vehicle to normal operating condition. A final report, which includes a summary of

all fees paid by the lessee over the life of the contract, shall be forwarded to the originating court, **diversion program administrator** or its designee and the Department. ( )

**403. -- 499. (RESERVED)**

**500. PRIMARY RESPONSIBILITIES OF AGENCIES/OFFICES MONITORING THIS RULE.**

Listed below are some of the primary responsibilities of the indicated offices/agencies, as outlined in this rule.

- (12-26-90)
- 01. Testing Lab.** (12-26-90)
- a.** Test devices for minimum standards. (12-26-90)
- b.** Submit notarized statement and copy of the Certification Test Report to manufacturer. (7-1-96)
- c.** Keep log of test results. (12-26-90)
- 02. Manufacturer or Manufacturer's Representative.** ( )
- a.** Submit device to lab for testing. (12-26-90)
- b.** Install, maintain and remove device as required by court. (12-26-90)
- c.** Set interlock level as established by *Idaho Code*. ( )
- d.** Submit quarterly (or more frequent) maintenance reports to originating court or its designee. (7-1-96)
- e.** *Upon request*, submit quarterly reports to **the** Department summarizing periodic device examinations and all complaints received. ( )
- f.** Provide court, **diversion program administrator or its designee**, or lessee and Department with statement of charges and/or any additional fees. ( )
- g.** Provide lessee with service and repair information. (12-26-90)
- h.** Provide **the** Department with proof of insurance annually. ( )
- i.** Report any attempt to disconnect any device to originating court, **diversion program administrator** or its designee. ( )
- j.** Advise court, **diversion program administrator** or its designee before removing any device unless authorized or in need of immediate repair. ( )
- 03. Idaho Transportation Department.** (12-26-90)
- a.** Maintain a list of known calibration/service locations in the state. (7-1-96)
- b.** Issue Letter of Certification for each device model to manufacturer. ( )
- c.** When necessary, revoke Letter of Certification. ( )
- d.** Maintain file of all letters. (12-26-90)
- e.** Maintain file of statement of charges (by device model). (12-26-90)
- f.** Maintain proof of insurance. (12-26-90)



- 04. Court.** (12-26-90)
- a.** The judge **or prosecuting attorney as the diversion program administrator or their designee** will order device installation, maintenance and removal. ( )
  - b.** The trial court administrator, **diversion program administrator** or **their** designee of the originating court will receive maintenance reports on each device installed pursuant to **court** order. ( )
  - c.** The trial court administrator, **diversion program administrator** or **their** designee of the originating court will receive **an itemized** statement of charges. ( )
  - d.** The trial court administrator, **diversion program administrator** or **their** designee of the originating court will receive manufacturer's reports of attempts to disconnect any device. ( )
  - e.** The trial court administrator or diversion program administrator or their designee will receive reports and a declaration from the lessee's ignition interlock vendor, on a form provided or approved by the diversion program administrator or their designee, certifying that none of the following incidents occurred while the system was installed in the lessee's vehicle(s): ( )
    - i.** Attempt to start vehicle with a BAC of **zero point zero four (0.04)** or more; ( )
    - ii.** Failure of the lessee to take any random test; or ( )
    - iii.** Failure of the lessee to pass any random retest with a BAC of **zero point zero two five (0.025)** or lower. ( )
    - iv.** Failure of the lessee to appear when required at vendor's place of business for maintenance, repair, calibration, monitoring, inspection or replacement of the system. ( )
- 05. Lessee.** (12-26-90)
- a.** Have device installed and maintained as ordered by court. (7-1-96)
  - b.** Receive **itemized** statement of charges and remit fees as scheduled. ( )
  - c.** Receive and comply with guidelines regarding repairing and maintaining the vehicle in good working order. (7-1-96)
- 501. -- 999. (RESERVED)**