

TRANSPORTATION & DEFENSE COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 11 - IDAHO STATE POLICE
11.13.01 - RULES GOVERNING MOTOR CARRIERS

DOCKET NO. 11-1301-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-2901, 67-2901A, and 49-901, Idaho Code.

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

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the Nov. 7, 2012 Idaho Administrative Bulletin, [Vol. 12-11 pages 35 through 37](#).

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 Lt. Jim Eavenson, 884-7048 or james.eavenson@isp.idaho.gov.

DATED this 4th Day of December, 2012.

Colonel G. Jerry Russell
Director
Idaho State Police
700 S. Stratford
P. O. Box 700
Meridian, ID 83680-0700
208-884-7000, Fax 208-884-7090

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-2901A and 49-901, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than November 21, 2012.

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

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

This rule change updates the incorporation by reference of the Code of Federal Regulations pertaining to the commercial federal regulations governing commercial motor vehicles and, specifically, hours of service and the restricted use of hand held devices.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because amendment of this rule aligns it with federal regulations that have already been implemented.

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: Updates the incorporation by reference of the CFR regarding hours of service and the restricted use of hand held devices for commercial motor vehicles

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Lt. Jim Eavenson, 884-7048 or james.eavenson@isp.idaho.gov.

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 November 28, 2012.

DATED this 25th day of October, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-1301-1201

019. CARRIER SAFETY REQUIREMENTS (RULE 19).

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

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

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

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

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

a. Part 356. Motor Carrier Routing Regulations. (3-29-10)

- b.** Part 365. Rules Governing Application for Operating Authority. (3-29-10)
- c.** Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
- d.** Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)
- e.** Part 385. Safety Fitness Procedures. (3-29-10)
- f.** Part 387. Minimum Levels of Financial Responsibility. (3-29-10)
- g.** Part 388. Cooperative Agreements with States. (4-5-00)
- h.** Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)
- i.** Part 391. Qualifications of Drivers. (4-5-00)
- j.** Part 392. Driving of Commercial Motor Vehicles. (3-29-10)
- k.** Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)
- l.** Part 395. Hours of Service of Drivers. (4-5-00)
- m.** Part 396. Inspection, Repair and Maintenance. (4-5-00)
- n.** Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)
- o.** Part 398. Transportation of Migrant Workers. (4-5-00)
- p.** Part 399. Employee Safety and Health Standards. (4-5-00)

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

04. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this ~~Sub~~section 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated ~~October 1, 2008~~ March 1, 2012. (~~3-29-10~~)()

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

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.12 - RULES GOVERNING ISSUING CERTIFICATES OF TITLE AND BONDED CERTIFICATES OF TITLE

DOCKET NO. 39-0212-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 49-201, Idaho Code, and based on the requirements established in Section 49-523, 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 proposal will align a bonded title's brand expiration date with the bond's expiration date, thereby eliminating customer issues that may occur due to the bond expiring prior to the brand's expiration date. Subsequently, with the bonded title brand expiring at the same time as the bond, there is the concern that the owner may apply for the bonded title just before the bond expires. This proposal requires that the owner obtain a bond rider if more than 90 days has passed since the bond was obtained, thereby providing a significant amount of time for the bonded title to be of public record for the protection of any prior owner or lien-holder who still has an interest and is trying to locate the vehicle. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Volume 12-9, pages 173 through 177](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact on the state general fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Barry Takeuchi, Outreach / Titles Program Specialist, 334-8662.

DATED this 29th day of November, 2012.

Linda L. Emry
Idaho Transportation Department
3311 W State St
PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-332-4107

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

EFFECTIVE DATE: The effective date of the temporary rule is **August 1, 2012**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 49-201, Idaho Code and based on the requirements established in Section 49-523, 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 19, 2012.

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

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

This proposal will align a bonded title's brand expiration date with the bond's expiration date, thereby eliminating customer issues that may occur due to the bond expiring prior to the brand's expiration date. Subsequently, with the bonded title brand expiring at the same time as the bond, there is the concern that the owner may apply for the bonded title just before the bond expires. This proposal requires that the owner obtain a bond rider if more than 90 days has passed since the bond was obtained, thereby providing a significant amount of time for the bonded title to be of public record for the protection of any prior owner or lien-holder who still has an interest and is trying to locate the vehicle.

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

This rulemaking confers a benefit by eliminating customer issues that may occur due to the bond expiring prior to the branded title expiration date.

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

increased:

There is no fee or charge associated with this rule-making.

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

There is no fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because there is no clearly identified group or organization to which this particular process would apply. The circumstances associated with requiring a bonded title are considered somewhat uncommon.

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: No materials are being incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Barry Takeuchi, Outreach / Titles Program Specialist, 334-8662.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 1st day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0212-1201

000. LEGAL AUTHORITY.

This rule is adopted under the authority of Section 49-~~523~~201, Idaho Code. (~~12-26-90~~)()

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 39.02.12 "Rules Governing Issuing Certificates of Title and Bonded Certificates of Title." ()

02. Scope. This rule ~~outlines the procedures and limitations~~ contains guidelines and requirements for issuing certain certificates of title and bonded certificates of title, pursuant to Section 49-523, Idaho Code. (~~12-26-90~~)()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." ()

004. INCORPORATION BY REFERENCE.

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

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS – PHONE NUMBERS.

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

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

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8663 or by fax at 208-334-8658. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

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

007. -- 099. (RESERVED)

100. GENERAL.

The Department shall issue a Certificate of Title on any ~~motor~~ vehicle if the applicant can show proper documentation of ownership, ~~and~~ there are no undisclosed security interests in the vehicle, and other requirements for titling have been satisfied. Such proper documentation shall be limited to: ~~(12-26-90)~~()

01. Certificate of Title. A valid Idaho Certificate of Title or a valid Certificate of Ownership issued by another state, province or country according to the applicable laws of another state, province or country which has been duly assigned or transferred to the applicant; or (12-26-90)

02. MCO/MSO. A properly executed Manufacturer's Certificate of Origin (MCO) or Manufacturer's Statement of Origin (MSO) in the case of a new ~~motor~~ vehicle being titled for the first time. ~~(12-26-90)~~()

03. Certificate of Registration. A Certificate of Registration from a non-titling state, province or country, together with a bill of sale from the registrant if other than the applicant. ()

04. Transfer by Operation of Law. In the case of a transfer by operation of law, a certified copy of a valid court order, decree, or instrument upon which the claim of possession and ownership is founded, passing title to the applicant as a matter of law (for example: a property settlement, divorce decree, bankruptcy, execution sale, or probate), together with an affidavit by the person or agent of the person to whom possession of the vehicle so passed, setting forth facts entitling him to possession and ownership. ()

05. Salvage Vehicles. For a salvage vehicle, a salvage certificate of title or other salvage ownership document issued by another state, province, or country according to the applicable laws of that state, province, or country, duly assigned or transferred to the applicant. ()

036. Homemade Vehicles. In the case of homemade vehicles (vehicles not made by a manufacturer as defined by Section 49-114, Idaho Code) a bill of sale for the major component parts which shall include the following information: (12-26-90)

- a. Name of builder; (12-26-90)
- b. Vehicle Identification Number (VIN) or engine number for a motorcycle, if applicable; (12-26-90)
- c. Description of major component part, (by make, body type, year of manufacture, if applicable); (12-26-90)
- d. Purchase price; (12-26-90)
- e. Signature of seller. (12-26-90)

047. Reconstructed and Specially Constructed Vehicles. For a reconstructed vehicle as defined by Section 49-123(im), Idaho Code, or a specially constructed vehicle as defined by Section 49-123(kp), Idaho Code, ~~or "kits,"~~ the original ownership document shall be submitted for the vehicle from which the body or cab being used has been taken unless the vehicle is from a state that requires the ownership document to remain with the frame in which case a copy of the ownership document verified to be a true and correct copy of the original, together with a bill of sale from the owner to whom the ownership document was issued if different than the applicant, shall be required. A bill of sale shall also be submitted for any of the following major components used in the vehicle's construction: ~~(12-26-90)~~()

- a. Frame or rails; (12-26-90)
- b. Engine or short block; (12-26-90)
- c. Transmission and/or transfer case; (12-26-90)
- ~~d. Cab and/or body; (12-26-90)~~

~~ed.~~ Front and rear clips; (12-26-90)

~~fe.~~ Truck bed or box; or (12-26-90)

~~g.~~ *A Certificate of Registration from a non-titling state, province or country; or*
(12-26-90)

~~h.~~ *A certified copy of a valid court order or decree passing title to the applicant as a matter of law (for example: a property settlement, divorce decree, bankruptcy or probate.)*
(12-26-90)

101. -- 199. (RESERVED)

200. BONDED TITLE.

Application may be made for a “bonded title” when the applicant has actual possession of the vehicle but is unable to provide proper documentation of ownership. (12-26-90)

01. Proper Documentation Cannot Be Obtained. The applicant must satisfy the Department that proper documentation to obtain a regular title cannot be obtained. However, the applicant must provide sufficient documentation to satisfy the Department that it is more probable than not that the applicant is the owner of the vehicle. (12-26-90)()

02. Vehicle Physical Inspection. The applicant must produce the vehicle for a physical inspection by a representative designated by the Department. (12-26-90)

03. Affidavit of Explanation. The applicant must provide an affidavit explaining the reasons for the absence of a valid Certificate of Title or Certificate of Ownership and how the vehicle came into the possession of the applicant. A listing of any liens (loans) or encumbrances against the vehicle, the name of the state, province or country where the vehicle was last titled, or last registered; if from a non-titling state, province, or country; and the name under which the vehicle was last titled, or last registered if from a non-titling state, province or country; ~~a registration~~ is also required. (12-26-90)()

04. Bond Amount. The applicant must provide the Department with a bond in the amount of one (1) and one-half (1/2) times the value of the vehicle or a cash deposit of like amount, ~~with the Department~~ as provided in Section 49-523(b), Idaho Code. A cash bond shall be in the form of a cashier's check, money order or certified check made payable to the Idaho Transportation Department. The form of the bond shall conform to Exhibit 1 of this rule the form ITD 3909, Vehicle Ownership Bond, which can be obtained by calling 208-334-8663 during regular business hours. (12-26-90)()

05. Vehicle Appraisal. The applicant shall provide an appraisal of the vehicle either by a licensed Idaho automobile dealer on the dealer's letterhead with dealer's number or by a Motor Vehicle Investigator. The appraisal shall reflect the current retail value of the vehicle. This appraisal shall be considered by the Department to determine the value of the vehicle. (12-26-90)()

06. Application for Title. The applicant shall apply for title within ninety (90) days of the bond's issuance. Should the application for title occur more than ninety (90) days from the issue date of the bond or any subsequent rider, the applicant shall obtain a rider to provide bond coverage for three (3) years. ()

07. Bonded Title Brand. Upon satisfying the department's requirements for a bonded title, the applicant shall be issued a title bearing the brand "Bonded Title" and the brand's expiration date, which shall be three (3) years from the date of issuance of the bond or receipt of the cash deposit. ()

(BREAK IN CONTINUITY OF SECTIONS)

202. CLAIMS AGAINST THE BOND.

Should any expense, loss or damage occur, for any reason covered by the bond, persons or entities suffering such loss shall make claim directly against the principal (applicant) and the surety. If the applicant has made a cash deposit, any claim shall be made through the Department's Motor Vehicle ~~Bureau Chief~~ Administrator. (12-26-90)()

203. EXPIRATION OF BONDING REQUIREMENT.

Upon expiration of a three (3) year period from the date of issuance of the bonded ~~title or receipt of a cash deposit~~, the bond or cash deposit shall be returned without interest unless the Department has been notified in writing of a pending claim or action to recover on the bond or deposit. If there has been no claim, the applicant shall surrender the bonded title and apply for a ~~clear~~ Certificate of Title free of the bonded title brand. A ~~clear~~ Certificate of Title free of the bonded title brand will be issued upon certification of the application and payment of ~~the proper any applicable~~ fees per Idaho Code Title 49, Chapters 2 and 5, and any applicable sales or use tax, per Title 63, Chapter 36, Idaho Code. (12-26-90)()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.60 - RULES GOVERNING LICENSE PLATE PROVISIONS

DOCKET NO. 39-0260-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 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 rulemaking provides procedural requirements for the implementation of program changes established in statute, through Senate Bill 1243, 2012. It adopts specific provisions for prequalification and application procedures for special license plate programs, as outlined in statute. It also provides for duplicate use of a letter/number combination on a larger (passenger vehicle) plate and a smaller (motorcycle) plate and eliminates the 45-day limitation on a proof of registration receipt, in keeping with the improved plate production and delivery process. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Volume 12-9, pages 178 through 182](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact on the state general fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Christine Fisher, Registration Program / Internal Communications Specialist, 334-8679.

DATED this 29th day of November, 2012.

Linda L. Emry
Idaho Transportation Department
3311 W State St
PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-332-4107

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

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2012**.

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

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

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

This rulemaking provides procedural requirements for the implementation of program changes established in statute, through Senate Bill 1243, enacted in 2012. It adopts specific provisions for prequalification and application procedures for special license plate programs, as outlined in statute. It also provides for duplicate use of a letter/number combination on a larger (passenger vehicle) plate and a smaller (motorcycle) plate and eliminates the 45-day limitation on a proof of registration receipt, in keeping with the improved plate production and delivery process.

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

Senate Bill 1243, 2012, established certain limitations and requirements relating to the application for and approval of Special License Plate Programs to ensure greater accountability for funds collected through those programs. The rule is being updated to reflect the implementation of these new requirements effective July 1, 2012.

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

The rulemaking does not impose a fee, but reflects a non-refundable fee that is imposed by new Idaho Code, Section 49-402D(2)(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: There is no fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes to the rule are reflective of requirements established in statute. As such, the rule changes do not lend themselves to negotiation.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: This rulemaking does not incorporate by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Christine Fisher, Registration Program / Internal Communications Specialist, 334-8679.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0260-1201

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

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

02. Placement of Temporary Proof of Registration Document. The ~~forty-five (45) day temporary~~ proof of registration receipt document shall be displayed in the rear window of the vehicle for which it is issued. When issued to a convertible, motorcycle, or other vehicle in which it is not possible to display in the rear window, the temporary proof of registration document must be conspicuously displayed where the license plate number and expiration date of the permit newly issued plate may be easily read, and where it is protected from exposure to weather

conditions, which would render it illegible.

(4-2-08)()

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

(BREAK IN CONTINUITY OF SECTIONS)

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

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

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

b. Responsible individual representing the agency will submit a financial plan detailing the use for the proceeds from the special plate sales. ()

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

02. Special License Plate Program Application Approval. ()

a. Upon approval of application by department, applicant will, by September 1, deposit programming and administration fees determined by an estimate of projected programming hours required. One thousand dollars (\$1000) of this fee will not be refundable.

()

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

03. Submission to The Legislature. When all requirements have been met, the Department will forward the completed application to the chairmen of the Transportation and Defense Committees of the Senate and the House of Representatives for consideration in the next Legislative Session. This submission will be on a form developed by the Department or other documentation which meets all the requirements listed in this rule. ()

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

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

1556. -- 198. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

202. PROVISIONS FOR PERSONALIZED LICENSE PLATES.

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

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

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

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

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

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

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

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

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

03. Specific Requests. Requests for specific plate letters and/or numbers will be issued on a first come, first served basis. In the event of a request for the same plate by more than one (1) individual, the request with the earliest postmark, e-mail transmission time, or fax transmission time will prevail. If the postmarks are the same, the date stamped upon arrival at the Department will prevail. Applications submitted at county assessors' offices will not be considered valid until stamped in by the Department. Telephone requests will not be accepted. (4-2-08)

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

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

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

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

06. Renewing Plates. The applicant will have the choice of renewing existing personalized plates with validation stickers or ordering a new set of plates at the time of renewal. If new plates are requested, the plate fee will be charged in addition to all other fees that are due.

New plates must be purchased every seven (7) years as provided in Section 49-443, Idaho Code. (4-2-08)

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

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

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

b. The message, in any language, may not carry a sexual connotation nor consist of a term that is considered to be one of: obscenity; contempt; prejudice; hostility; insult; racial degradation; ethnical degradation; profanity; or refers to bodily functions, bodily fluids, or intimate body parts; sexual preference or orientation; act of violence, illegal substances; or vulgarity as defined in dictionaries of general use, including, but not limited to, Webster's Unabridged Dictionary and the Harper & Row New Dictionary of American Slang. (3-2-10)

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

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

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

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

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

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

- b.** Clerical error. (1-3-92)
- c.** Unacceptable personalized messages as outlined in Paragraph 202.08.b. of these rules. (4-2-08)

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

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

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.61 - RULES GOVERNING LICENSE PLATES FOR GOVERNMENTAL AGENCIES AND TAXING DISTRICTS

DOCKET NO. 39-0261-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective July 1, 2013, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201 and 49-443B, 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 needed to create equity for those agencies eligible for exempt vehicle registration. One program is currently exempt from any payment, with all costs subsidized by the department. This rulemaking will make the application process and registration cost consistent for all exempt plates. It adds provisions specific to the undercover plate program. It also adds standard language required by the Office of Administrative Rules, Sections 002 through 006. In order to provide sufficient time for implementation and budget considerations, the requested effective date is July 1, 2013. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Volume 12-10, pages 924 through 926](#).

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 Christine Fisher, Registration Program / Internal Communications Specialist, 334-8679.

DATED this 29th day of November, 2012.

Linda L. Emry
Idaho Transportation Department
3311 W State St
PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-332-4107

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Sections 49-201 and 49-443B, Idaho Code.

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

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

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

This rule is needed to create equity for those agencies eligible for exempt vehicle registration. One program is currently exempt from any payment, with all costs subsidized by the Department. This rulemaking will make the application process and registration cost consistent for all exempt plates. It adds provisions specific to the undercover plate program. It also adds standard language required by the Office of Administrative Rules, Sections 002 through 006. In order to provide sufficient time for implementation and budget considerations, if the pending rule is approved as a final rule after legislative review, the requested effective date will **July 1, 2013**.

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

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

Currently, the Department is absorbing the costs for undercover plates which has grown to 2,100 requests processed annually. At \$23 per transaction, the Department is subsidizing these programs at approximately \$48,300 per year. State agencies receive 353 plates (\$8,110), Cities and Counties receive 1,022 plates (\$23,506), and the remaining plates are obtained by federal agencies and surrounding states for law enforcement/investigative purposes. To accommodate budget planning, should the pending rule be approved as final, the requested effective date is July 1, 2013.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because in keeping with legislative direction that administrative costs be borne by the user, this rulemaking will place the responsibility and accountability for

costs associated with their respective vehicles with the various state and federal agencies and local jurisdictions. Unlike all other exempt plates, undercover plates do not pay any portion of associated administrative costs. This rulemaking will formalize the process, making it consistent with all other exempt plate programs, which includes the payment of administrative costs only.

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: No materials are being incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Christine Fisher, 334-8679.

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

DATED this 17th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0261-1201

000. LEGAL AUTHORITY.

This rule, establishing the policies used to administer Idaho's exempt and undercover license plate programs is adopted under authority of Sections 49-201 and 49-443B, Idaho Code. ~~(1-2-93)~~()

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.02.61, Rules Governing License Plates for Governmental Agencies and Taxing Districts. ()

02. Scope. This rule establishes the criteria provisions for administering the exempt and under cover license plate programs, not otherwise detailed in Title 49, Chapter 4, Idaho Code, Motor Vehicle Registration.

~~(1-2-93)~~()

002. WRITTEN INTERPRETATIONS.

This agency does not rely on written interpretations for these rules. ()

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provisions of IDAPA 04.11.01. "Idaho Rules of Administrative Procedure of the Attorney General." ()

004. INCORPORATION BY REFERENCE.

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

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

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

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

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8649 or by fax at 208-334-8542. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

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

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Exempt License Plate. Standard license plate issued to the entities described in Section 49-426(1), Idaho Code, which are exempt from payment of vehicle operating fees. (1-2-93)

02. Exempt Personalized License Plate. An exempt plate which specifically identifies the agency by a unique identifier specified by the agency that does not conform to the standard exempt identifier listed in Section 100; a plate wherein the serial number portion represents inventory control numbers, badge numbers, radio call signs, or other unique lettering or numbering schemes developed by the requesting agency; plates that are lettered and/or numbered to indicate a person's position in the hierarchy of an agency. (1-2-93)

03. Undercover License Plate. A standard license plate issued upon application to the Department from an exempt agency with law enforcement authority. Undercover license plates shall be randomly issued by the Department, and appear as a standard county plate. ()

(BREAK IN CONTINUITY OF SECTIONS)

200. ISSUING AGENCY.

All exempt and undercover license plates will be issued by the Idaho Transportation Department upon receipt of a request from an authorized agency. (1-2-93)()

201. -- 299. (RESERVED)

300. INFORMATION TO BE PROVIDED BY AN AUTHORIZED AGENCY.

A request for exempt or undercover plates must contain: ~~(1-2-93)~~()

01. Actual Name and Address. The name and address of the requesting agency. ~~(1-2-93)~~()

02. Vehicle Description. The description of the vehicle(s) to be registered, including the year, the make, model, type, vehicle identification (VIN), color and title number, and truck weight if eight thousand one pounds (8,001 lbs.) or more. (1-2-93)

03. Fictitious Name and Address. The name and address of the registrant to appear on the undercover plate registration, and title records of the Department. ()

034. Authorized Official. The request must be signed by an authorized official of the authorized agency. (1-2-93)

301. -- 399. (RESERVED)

400. VEHICLE TITLING.

01. For Exempt Registration and License Plates. If the vehicle is not titled, the title transaction shall be completed at the local county assessor's office before requesting exempt plates. The control number from the title application may be used in lieu of the title number on the exempt plate request letter. ~~(1-2-93)~~()

02. Undercover Vehicle Titling. The actual name and address of the requesting agency, along with the fictitious name and address of the registrant shall be provided directly to the Department on a completed application approved by the authorized official. ()

401. -- 499. (RESERVED)

500. EXEMPT AND UNDERCOVER PLATE FEES.

01. Department Reimbursement. State and federal agencies and taxing districts must reimburse the Department the cost of providing license plates. These costs shall be determined by the cost of manufacture and the cost to the Department of processing the transaction. ~~(1-2-93)~~()

02. Adjusted Fees. Periodically, fees may be adjusted in accordance with changes in manufacturing costs, postage, employee costs and legislative mandate. (1-2-93)

(BREAK IN CONTINUITY OF SECTIONS)

601. UNDERCOVER PLATE DISPLAY.

Undercover license plates shall be displayed in accordance with Section 49-428, Idaho Code. A pressure-sensitive sticker displaying an expiration date matching the plate number shall be attached to the plate(s) in the space provided for this purpose. There shall be no discerning markings to indicate that the plate or registration record is in undercover use. ()

~~6012~~. -- 699. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

801. UNDERCOVER PLATE STATUS.

01. Expiration of Plates. Undercover license plates shall expire annually or biennially based upon the application of the authorized agency. Registration status shall appear as valid, until expiration date. Renewals must be made to the Department upon expiration of the undercover license plate. ()

02. Transfer of Plates. Undercover license plates may be transferred between vehicles. If an undercover license plate is transferred to another vehicle, a transfer request must be made to the Department's Vehicle Services Section/Special Plates Unit. ()

03. Reissue of Plates. Physical undercover plates will be reissued in accordance with Section 49-443(2), Idaho Code. ()

04. Emission Testing of Undercover Vehicles. Vehicles issued undercover license plates who list an address in a county or area of required emission testing will need to check with the emission authority to be exempted from the testing requirement, or test as a typical registered vehicle. ()

~~8012~~. -- 999. (RESERVED)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.02.71 - RULES GOVERNING DRIVER'S LICENSE VIOLATION POINT SYSTEM

DOCKET NO. 39-0271-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 49-201 and 49-326, 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. Section 49-326, Idaho Code, authorizes and directs the department to establish a violation point count system for various moving traffic violations and infractions. This rule implements the system and provides information and guidance to the public and those drivers impacted by violation points. This rulemaking updates the rule with standard required language in Sections 005 and 006, updates the Point Count List with specific violations and acknowledges the point exemption to certain violations, such as texting, in Section 49-1401A, Idaho Code, per Senate Bill 1274, 2012. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 3, 2012 Idaho Administrative Bulletin, [Volume 12-10, pages 927 through 930](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact on the state general fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ed Pemble, Driver Services Manager, 332-7830.

DATED this 29th day of November, 2012.

Linda L. Emry
Idaho Transportation Department
3311 W State St
PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-332-4107

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking procedures. The action is authorized pursuant to Sections 49-201 and 49-326, Idaho Code.

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

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

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

Section 49-326, Idaho Code, authorizes and directs the Department to establish a violation point count system for various moving traffic violations and infractions. This rule implements the system and provides information and guidance to the public and those drivers impacted by violation points. This rulemaking updates the rule with standard required language in Sections 005 and 006, updates the Point Count List with specific violations and acknowledges the point exemption to certain violations, such as texting, in Section 49-1401A, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee or charge imposed or increased in this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ((\$10,000) during the fiscal year resulting from this rulemaking: There is no fiscal impact on the state general fund resulting from this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule is being updated to reflect violations in Sections 49-624, 49-650, and 49-658, Idaho Code, which identify Moving Traffic Violations and also acknowledge statutes which may provide a point exemption such as Section 49-1401A, Idaho Code, with regard to texting (Senate Bill 1274, 2012).

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: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Ed

Pemble, Driver Services Manager, 332-7830.

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

DATED this 17th day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0271-1201

005. OFFICE – OFFICE HOURS – MAILING AND STREET ADDRESS – PHONE NUMBERS.

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

02. Office Hours. Daily office hours are 8:00 am to 5:00 pm, Mountain Time, except Saturday, Sunday and state holidays. ()

03. Telephone and FAX Numbers. The central office may be contacted during office hours by phone at 208-334-8736 or by fax at 208-334-8739. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

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

0057. -- 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 all moving violations and infractions in *the* 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.

(~~7-1-97~~)()

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

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

05. Speeding Violation. Drivers convicted of traveling sixteen (16) miles per hour or more over the posted maximum speed limit or exceeding the speed limit in a construction danger zone will receive four (4) points. Driving convictions of ~~IDAPA 39.02.71~~ other speeding violations will receive three (3) points. (~~7-1-97~~)()

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)
49-615	Drivers To Exercise Due Care	three (3)
49-616	Driving Through Safety Zone Prohibited	two (2)
<u>49.624</u>	<u>Duty Upon Approaching a Stationary Police Vehicle, or Emergency Vehicle Displaying Flashing Lights</u>	<u>three (3)</u>
49-625	Operation Of Vehicles On Approach Of Authorized Emergency Police Vehicles	three (3)
49-630	Drive On Right Side of Road - 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)
49-640	Vehicles Approaching Or Entering Unmarked Or Uncontrolled Intersection	three (3)

Idaho Code	Convictions Reported by Court	Point Count
49-641	Vehicle Turning Left	three (3)
49-642	Vehicle Entering Highway	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 Crossing	four (4)
<u>49-650</u>	<u>Failure to Allow Sufficient Undercarriage Clearance at Railroad Grade Crossing</u>	<u>three (3)</u>
49-651	Emerging From Alley, Driveway Or Building	three (3)
49-654	Basic Rule And Maximum Speed Limits	three (3) four (4)
49-655	Minimum Speed Regulation	three (3)
49-656	Special Speed Limitations	three (3) four (4)
49-657	Construction Danger Zone Speed Limits	three (3)
<u>49-658</u>	<u>School Zone Speed Limit</u>	<u>three (3)</u>
49-702	Pedestrians' Right Of Way In Crosswalks	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)
49-807(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)
<u>49-1401A</u>	<u>Texting While Driving</u>	<u>Exempt</u>
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)

(3-30-01)()

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT
39.03.04 - RULES GOVERNING MOVEMENT OF DISABLED VEHICLES
DOCKET NO. 39-0304-1201 (NEW CHAPTER)
NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. Sections of existing rule, IDAPA 39.03.10.300.05.a.-e., Rules Governing When an Overlegal Permit is Required, have been removed and used as the basis for a new rule, IDAPA 39.03.04, Rules Governing Movement of Disabled Vehicles, to address the movement of vehicles by tow trucks, sometimes in emergency situations. Language has been updated for better organization and to provide clarity. Industry needs are simply broader than what would be appropriate in the existing rule, 39.03.10, which addresses when overlegal permits are required. The guidance for movement of disabled vehicles was originally established in a section of this rule which primarily addresses the waiver of permit policy restrictions in emergency situations and was very limited in scope. The new rule provides greater clarity and authority for the industry since their role in providing service to a disabled vehicle is not always related to an emergency and there are frequently many other elements to consider in the movement of specialized equipment and the loads they may have been transporting. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Volume 12-9, pages 183 through 186](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact on the state general fund resulting from this rulemaking.

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

DATED this 29th day of November, 2012.

Linda L. Emry
Idaho Transportation Department
3311 W State St
PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-332-4107

<p>THE FOLLOWING NOTICE WAS PUBLISHED WITH THE TEMPORARY AND PROPOSED RULE</p>

EFFECTIVE DATE: The effective date of the temporary rule is **August 1, 2012**.

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

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

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

Sections of existing rule, IDAPA 39.03.10.300.05.a. through 300.05.e., “Rules Governing When an Overlegal Permit Is Required,” have been removed and used as the basis for a new rule, IDAPA 39.03.04, “Rules Governing Movement of Disabled Vehicles,” to address the movement of vehicles by tow trucks. Language has been updated for better organization and to provide clarity. Industry needs are simply broader than what would be appropriate in the existing rule, 39.03.10, which addresses when overlegal permits are required. The guidance for movement of disabled vehicles was originally established in a section of this rule which primarily addresses the waiver of permit policy restrictions in emergency situations and was very limited in scope. The new rule provides greater clarity and authority for the industry since their role in providing service to a disabled vehicle is not always related to an emergency and there are frequently many other elements to consider in the movement of specialized equipment and the loads they may have been transporting.

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

At the request of the towing companies and the Idaho Trucking Association, the department has proposed changes that will clarify the role, responsibility and authority of tow trucks and wreckers in the removal of disabled vehicles. Confers a benefit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee or charge associated with this rulemaking.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact to the state general fund nor to the department or to the industry.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature. Language was removed from an existing rule and used as the basis for a new rule to meet the needs of the towing industry.

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: No materials are incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0304-1201

IDAPA 39
TITLE 03
CHAPTER 04

39.03.04 - 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. ()

001. TITLE AND SCOPE.

01. Title. This rule shall be cited as IDAPA 39.03.04, “Rules Governing Movement of Disabled Vehicles,” IDAPA 39, Title 03, Chapter 04. ()

02. Scope. This rule provides the requirements for the movement of disabled vehicles. ()

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter. ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals under this chapter shall be governed by the rules of administrative procedure of the attorney general, IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

004. INCORPORATION BY REFERENCE.

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

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

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

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

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

006. PUBLIC RECORDS ACT COMPLIANCE.

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

007. -- 009. (RESERVED)

010. DEFINITIONS.

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

011. -- 099. (RESERVED)

100. GENERAL.

An overlegal permit, in writing, shall be required for any movement on any completed section of highway under the jurisdiction of the Department by any vehicle or vehicles which exceed the allowable weights or sizes established in Sections 49-1001, 49-1002 or 49-1010, Idaho Code.

()

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:

()

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.

()

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 Overlegal Permit Office and is available to the public from the Overlegal Permit Office at the address listed in Section 005 of this rule, and Idaho Ports of Entry or on line at http://itd.idaho.gov/dmv/poe/documents/route_cap2.pdf. 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.

()

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 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits." A front pilot vehicle will be required when disabled vehicle exceeding ten (10) feet wide are moved at night.

()

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.

()

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).

()

b. Secondary Movement of disabled vehicles shall be defined as follows: a single vehicle or combination of disabled vehicles that have been separated into to single vehicles and

are moving from other than the original point of disablement. ()

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. ()

300. HAZARDOUS TRAVEL CONDITIONS RESTRICTIONS.

Extreme caution in the operation of permitted vehicle combinations shall be exercised when hazardous conditions exist. The movement of overlegal vehicles and/or loads by overlegal permit shall be prohibited and otherwise valid permits shall automatically become invalid enroute when travel conditions become hazardous due to ice, snow or frost; when visibility is restricted to less than five hundred (500) feet by fog, dust, smoke or smog or other atmospheric conditions. ()

301. -- 999. (RESERVED)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.10 - RULES GOVERNING WHEN AN OVERLEGAL PERMIT IS REQUIRED

DOCKET NO. 39-0310-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. At the request of the towing companies and the Idaho Trucking Association, the department has proposed changes that will remove guidelines related to the movement of disabled vehicles from this rule and move them to a new rule, 39.03.04, which will centralize the role, responsibility, and authority of tow trucks and wreckers in the movement of disabled vehicles. Two additional changes have been made to this rule, relating to office hours in Section 005.02 and to emergency movement of implements of husbandry in Section 300.03. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Volume 12-9, pages 187 through 189](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact on the state general fund resulting from this rulemaking.

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

DATED this 29th day of November, 2012.

Linda L. Emry
Idaho Transportation Department
3311 W State St
PO Box 7129
Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-332-4107

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

EFFECTIVE DATE: The effective date of the temporary rule is **August 1, 2012**.

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

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

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

At the request of the towing companies and the Idaho Trucking Association, the department has proposed changes that will remove guidelines related to the movement of disabled vehicles from this rule and move them to a new rule, 39.03.04, that will centralize the role, responsibility, and authority of tow trucks and wreckers in the movement of disabled vehicles. Two additional changes have been made to this rule, relating to office hours in Section 005.02 and to emergency movement of implements of husbandry in Section 300.03.

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

This rulemaking, along with the companion Docket 39-0304-1201, confers a benefit on the industry by creating a new rule that will better meet their needs.

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

There is no fee or charge associated with this rulemaking.

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

There is no fiscal impact on the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking is simple in nature and proposed at the request of industry.

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:

No materials are incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Regina Phipps, Vehicle Size & Weight Specialist, 334-8418.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0310-1201

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

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W State Street with a mailing address of PO Box 7129, Boise ID 83707-1129. (4-2-08)

02. Office Hours. Daily office hours are 7:30 a.m. to 5 p.m. Mountain Time except Saturday, Sunday and state holidays. (4-2-08)()

03. Telephone and Fax Numbers. The central office may be contacted during office hours by phone at 208-334-8420 or by fax at 334-8419. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

300. WAIVER OF LIMITATIONS FOR EMERGENCY MOVEMENTS.

Notwithstanding other provisions of these rules, the Idaho Transportation Board may waive

existing permit policy limitations in the event of an emergency, subject to such limitations or special requirements as the Board may impose. (8-25-94)

01. Military Emergency Affecting National Security. Any movement by or for a military or other government agency which is in excess of permit policy maximum limits of weight or size or which is otherwise outside established rules must be certified as a military necessity involving national security before receiving any special consideration to provide any waiver of normal permit rules. Certification of military necessity must be made by an official designated as having such authority by the Department of Defense Directory, issued by the Office of the Chief of Transportation, Department of Army. All applications for military emergency movements must be channeled through the Vehicle Size and Weight Specialist, Idaho Transportation Department. (8-25-94)

02. Emergencies Endangering the Public Health, Safety or Welfare Including but Not Limited to Fire, Flood, or Earthquake. During an emergency endangering the public health, safety or welfare, there may be an urgent and immediate need for equipment and it will not be in the public interest to require that an overlegal permit be in the vehicle prior to an over legal movement. Verbal approval to proceed without an overlegal permit in the vehicle may be obtained from the Overlegal Permit Office or an Idaho Port-of-Entry. Once the emergency movement is completed, formal application for an Overlegal Permit must be submitted to the Overlegal Permit Office. (4-2-08)

03. Emergency Movement of Implements of Husbandry. It shall be considered an emergency when an implement of husbandry being operated on an official state holiday or a weekend (the Overlegal Permit Office is closed on weekends and holidays - for hours of Permit Office operation see IDAPA 39.03.09, "Rules Governing Overlegal Permits-General Conditions and Requirements") breaks down and ~~needs to be taken to a dealer for immediate repair, or a dealer brings replacement equipment to the farmer that exceeds the annual permit maximum width of fourteen (14) feet - six (6) inches.~~ Verbal approval to proceed without an overlegal permit in the vehicle may be obtained from an Idaho Port of Entry. That verbal authorization will include escort vehicle requirements based on the route of travel and width of load. Once the emergency movement is completed, the permittee shall make formal application for a permit to the Overlegal Permit Office on the first working day after the occurrence. (4-2-08)()

04. Economic Emergencies. When a circumstance occurs in which an economic hardship is expected to result due to the application of existing rules or limitations, the Transportation Board may consider a petition for the temporary waiver of those rules or limitations which are perceived as being the cause of such economic hardship. (8-25-94)

~~**05. Emergency Removal of Disabled Vehicles.** Annual Disabled Vehicle permits will be issued to heavy duty wrecker trucks or other vehicles used for the emergency removal and secondary movement of disabled trucks and/or trailers or combinations and their unladen return, subject to the following rules: (4-2-08)~~

~~**a.** The permitted vehicle involved in the removal of disabled vehicles shall have adequate 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 vehicles. (12-26-90)~~

~~**b.** 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 Overlegal Permit Office and is available to the public from the Overlegal Permit Office and Idaho Ports of Entry. 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 a permitted disabled over width vehicle/load. (4-2-08)~~

~~**c.** Time of travel restrictions shall be waived during the emergency movement of the disabled vehicles when necessary to clear the travel way. (4-2-08)~~

~~**d.** Emergency movement of disabled vehicles will be authorized from the point at which the vehicles were disabled to the nearest appropriate site having facilities for separation of vehicle combinations into single units unless by nature of the load it presents a hazard to the public (i.e.: hazardous materials as defined by CFR 49) due to cargo security. In this event, the emergency movement shall be allowed to be transported to the nearest location where the cargo 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 Paragraph 300.05.b. of this rule are not exceeded. Secondary movements of disabled vehicles that are overwidth and moving at night shall be required to operate in accordance with the lighting requirements as listed in IDAPA 39.03.12, "Rules Governing Safety Requirements of Overlegal Permits." (4-2-08)~~

~~**e.** The permitted vehicle involved in the removal of a disabled vehicle shall be allowed (under annual disabled vehicle permit) to tow a non-disabled vehicle to the point of disablement, to replace the disabled vehicle. (4-5-00)~~

065. Emergency Movements After Dark or Weekends. Any overwidth load moving after dark or on weekends on a red coded route of the Pilot/Escort Vehicle and Travel Time Requirements Map must be preceded by an escort vehicle displaying a rotating or flashing amber light to warn other traffic of the presence of the hazard. Any overwidth load moving after dark on black coded routes, if width exceeds ten (10) feet, must also be preceded by such a pilot/escort vehicle. All overwidth loads moved after dark shall have the extreme dimensions marked by lights as required by IDAPA 39.03.12, "Rules Governing Safety Requirements For Overlegal Permits." Self-propelled vehicles utilized to clear the travelway of snow or debris are exempt from the provisions listed in this Subsection. (4-2-08)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.03.41 - RULES GOVERNING TRAFFIC CONTROL DEVICES

DOCKET NO. 39-0341-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 40-312(1), Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The recently revised 2009 Edition of the Manual on Uniform Traffic Control Devices, established certain requirements for sign replacement, including deadlines. In response to concerns from those impacted, FHWA opted to extend or eliminate certain requirements for sign replacement, depending on the sign classification. Immediate adoption of the rule confirms those changes for state and local jurisdictions throughout the state, which results in a delayed implementation and delayed fiscal impact. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Volume 12-9, pages 190 through 199](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact on the state general fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Carl Main, Transportation Safety Engineer, 334-8558.

DATED this 29th day of November, 2012.

Linda L. Emry
Idaho Transportation Department
3311 W State St
PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 / FAX – 208-332-4107

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

EFFECTIVE DATE: The effective date of the temporary rule is **July 20, 2012**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rule-making procedures have been initiated. The action is authorized pursuant to Section 40-312(1), 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 19, 2012.

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

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

The recently revised 2009 Edition of the Manual on Uniform Traffic Control Devices, established certain requirements for sign replacement, including deadlines. In response to concerns from those impacted, FHWA opted to extend or eliminate certain requirements for sign replacement, depending on the sign classification. Immediate adoption of the rule confirms those changes for state and local jurisdictions throughout the state, which results in a delayed implementation and delayed fiscal impact.

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

This rulemaking adopts the most recent version of the MUTCD, including Revisions 1 and 2. Revision 1 contains new definitions for engineering judgment with are consistent with the previously adopted conforming addition allowing us to strike the conforming addition from this rule. The purpose of Revision 2 is to revise certain information relating to target compliance dates for traffic control devices. The final rule revises Table I-2 of the MUTCD by eliminating the compliance dates for 46 items (8 that had already expired and 38 that had future compliance dates) and extends and/or revises the dates for 4 items. The target compliance dates for 8 items that are deemed to be of critical safety importance will remain in effect. In addition, this final rule adds a new Option statement exempting existing historic street name signs within a locally identified historic district from the Standards and Guidance of Section 2D.43 regarding street sign color, letter size, and other design features, including retroreflectivity. Consistent with Executive Order 13563, and in particular its emphasis on burden-reduction and on retrospective analysis of

existing rules, the changes adopted are intended to reduce the costs and impacts of compliance dates on State and local highway agencies and to streamline and simplify the information.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking is based on a federal compliance issue which also confers a benefit to users.

Federal requirements in this rule were approved by the 2012 Legislature. Requirements for sign replacement have been extended or eliminated depending on the sign classification, resulting in a delayed implementation and delayed fiscal impact to users.

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:

This rulemaking incorporates by reference the 2009 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, including Revisions 1 and 2, with an effective date of June 13, 2012, with conforming additions as specified in Section 004 of the rule. The full document exceeds two-thousand pages and would not be practical to adopt in its entirety.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Carl Main, Traffic Services Engineer, 334-8558.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0341-1201

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 January June 15³, 2010², 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: (3-29-12)()

01. ~~Section 1A.09, Engineering Study and Engineering Judgment.~~ Page 4—replace the section in its entirety with Section 1A.09, page 1A-3 as published in the 2003 MUTCD, to read as follows:

~~**Standard:**
This Manual describes the application of traffic control devices, but shall not be a legal requirement for their installation.
Guidance:
The decision to use a particular device at a particular location should be made on the basis of either an engineering study or the application of engineering judgment. Thus, while this Manual provides Standards, Guidance, and Options for design and application of traffic control devices, this Manual should not be considered a substitute for engineering judgment.
Engineering judgment should be exercised in the selection and application of traffic control devices, as well as in the location and design of the roads and streets that the devices complement. Jurisdictions with responsibility for traffic control that do not have engineers on their staffs should seek engineering assistance from others, such as the State transportation agency, their County, a nearby large City, or a traffic engineering consultant.~~

(3-29-12)

021. **Section 1A.11, Relation to Other Documents.** On page 7 - in the first paragraph under Standard, change the paragraph to read as follows: 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 (ITD) Sign Chart; 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). Add the following as the first sentence of the “Support” statement: Idaho Transportation Department Sign Chart includes all signs approved for use on a highway under the jurisdiction of the Idaho Transportation Department, their sign number designations and a cross reference index for comparison of all MUTCD approved signs and those included on the Idaho Transportation Department sign chart. (3-29-12)

03. ~~Section 1A.13, Definitions of Words and Phrases in this Manual.~~

~~On page 10, modify the definition of A. Standard to read as follows:-
Standard— a statement of required, mandatory, or specifically prohibitive practice regarding a traffic control device. All Standard statements are labeled, and the text appears in bold type. The verb “shall” is typically used. The verbs “should” and “may” are not used in Standard statements. Standard statements are sometimes modified by Options.~~

~~On page 14, replace definition 64, Engineering Judgment, with the definition 25, Engineering Judgment, as published in the 2003 MUTCD on page 1A-11:~~

~~**Engineering Judgment**— the evaluation of available pertinent information, and the application of appropriate principles, Standards, Guidance, and practices as contained in this Manual and other sources, for the purpose of deciding upon the applicability, design, operation, or installation of a traffic control device. Engineering judgment shall be exercised by an engineer, or by an individual working under the supervision of an engineer, through the application of procedures and criteria established by the engineer. Documentation of engineering judgment is not required.~~

~~On page 14, replace definition 65, Engineering Study, with the definition 26, Engineering Study, as published in the 2003 MUTCD on page 1A-11:~~

~~**Engineering Study**— the comprehensive analysis and evaluation of available pertinent information, and the application of appropriate principles, Standards, Guidance, and practices as contained in this Manual and other sources, for the purpose of deciding upon the applicability, design, operation, or installation of a traffic control device. An engineering study shall be performed by an engineer, or by an individual working under the supervision of an engineer, through the application of procedures and criteria established by the engineer. An engineering study shall be documented.~~

(3-29-12)

042. Section 2C.48, Traffic Signal Signs (W25-1, W25-2). On page 128 - delete the section in its entirety, and Figure 2C-9. Intersection Warning Signs and Plaques, on page 127, remove the W25-1 and W25-2 signs from the figure. (3-29-12)

053. Section 2C.63, Object Marker Design and Placement Height. ()

a. On page 134 - make the following changes to allow alternate methods of marker construction and additional types of markers:

Support:

Type 1, 2, 3, 5 and 6 object markers are used to mark obstructions within or adjacent to the roadway, Type 4 object markers are used to mark the end of a roadway, Type 5 for Rail-grade Crossings and Type 6 for Truck Escape Ramps.

Standard:

When used, object markers (see Figure 2C-13) shall not have a border and shall consist of an arrangement of one (1) or more of the following types:

~~a.~~ Type 1 - either a diamond-shaped sign, at least eighteen (18) inches on a side, consisting of either a yellow (OM1-1) or black (OM1-2) sign with nine (9) yellow retroreflective devices, each with a minimum diameter of three (3) inches, mounted symmetrically on the sign, or an all-yellow retroreflective sign (OM1-3) or a marker consisting of a rigid substrate sheeted with yellow retroreflective sheeting screen printed to display nine (9) yellow retroreflective circles, each with a minimum diameter of three (3) inches, arranged symmetrically on a black (OM1-2) diamond shaped panel eighteen (18) inches or more on a side; or an all-yellow retroreflective diamond shaped panel (OM1-3) of the same size. ~~(3-29-12)~~

~~b.~~ Type 2 - either a marker (OM2-1V or OM2-1H) consisting of three (3) yellow retroreflective devices, each with a minimum diameter of three (3) inches, arranged either horizontally or vertically on a white sign measuring at least six (6) inches by twelve (12) inches; or an all-yellow horizontal or vertical retroreflective sign (OM2-2V or OM2-2H), measuring at least six (6) inches by twelve (12) inches; or a marker (OM2-1V or OM2-1H) consisting of a rigid substrate sheeted with white retroreflective sheeting and displaying three (3) yellow circles of retroreflective sheeting, each with a minimum diameter of three (3) inches, arranged either horizontally or vertically on a white panel measuring at least six (6) inches by twelve (12) inches; or on an all-yellow horizontal or vertical retroreflective panel (OM2-2V or OM2-2H), sheeted with retroreflective sheeting measuring at least six (6) inches by twelve (12) inches. ~~(3-29-12)~~

~~c.~~ Type 3 - a striped marker, twelve (12) inches by thirty-six (36) inches, consisting of a rigid substrate sheeted with yellow retroreflective sheeting screen printed to display a vertical rectangle with alternating black stripes and retroreflective yellow stripes sloping downward at an angle of forty-five (45) degrees toward the side of the obstruction on which traffic is to pass. The minimum width of the yellow and black stripes shall be three (3) inches. ~~(3-29-12)~~

~~d.~~ Type 4 - a diamond-shaped sign, at least eighteen (18) inches on a side, consisting of either a red (OM4-1) or black (OM4-2) sign with nine (9) red retroreflective devices, each with a minimum diameter of three (3) inches, mounted symmetrically on the sign, or an all-red retroreflective sign (OM4-3). ~~(3-29-12)~~

e. Type 5 - add a category for Type 5 object markers to read as follows: a striped marker to be used for marking of Highway-Rail Grade or Highway-Light Rail Transit Grade crossings ONLY. The marker is to be thirty-three (33) inches by thirty-eight (38) inches, consisting of a vertical rectangle with two (2), eleven point five (11.5) inch side wings and an eight point five (8.5) inch center section which are formed by bending the panel from top to bottom at a forty-five (45) degree angle away from approaching traffic. The rigid substrate panel is sheeted on both sides with white diamond grade prismatic retroreflective sheeting and has reflective chrome stripes and red transparent ink stripes applied to the side wings sloping downward from the top outer corners at an angle of forty-five (45) degrees toward the center of the marker where they meet corresponding stripes which have been placed at a ninety (90) degree angle across the center section of the marker, except on the back of the marker which shall have the center section unsheeted and on the areas of the bends which shall have a point seventy-five (.75) inch wide strip from top to bottom left unsheeted. The stripes shall meet the following dimensions: chrome stripes shall be one point five (1.5) inches and red stripes shall be five point five (5.5) inches. ~~(3-29-12)~~

f. Type 6 - add a category for Type 6 object markers to read as follows: a striped marker, twelve (12) inches by thirty-six (36) inches, consisting of a vertical rectangle with alternating white and retroreflective red stripes sloping downward at an angle of forty-five (45) degrees toward the side of the obstruction on which traffic is to pass, to be used for entrance to Truck Escape Ramps ONLY. The minimum width of the white and red stripes shall be three (3) inches. Red retroreflective stripes shall meet the minimum requirements of sheeting.

()

b. On page 134 ~~U~~nder “Support:” add the following revised paragraph 2:

Type 3 and Type 6 object markers with stripes that begin at the upper right side and slope downward to the lower left side are designated as right object markers (OM3-R) or (OM6-R). Object markers with stripes that begin at the upper left side and slope downward to the lower right side are designated as left object markers (OM3-L) or (OM6-L).

~~Under “Support:” add the following as paragraph 3:~~

~~The Type 5 object marker, known in Idaho as OM-5 (IdaShield), shall be placed below the Highway-Rail Grade or Highway-Light Rail Transit Grade crossing Crossbuck Sign Assembly on the right hand side of the roadway on each approach to a crossing where automatic signal warning devices do not exist. The bottom of the shield should be twenty-four (24) inches above the top of the rail and shall not be more than thirty-six (36) inches above the ground.~~

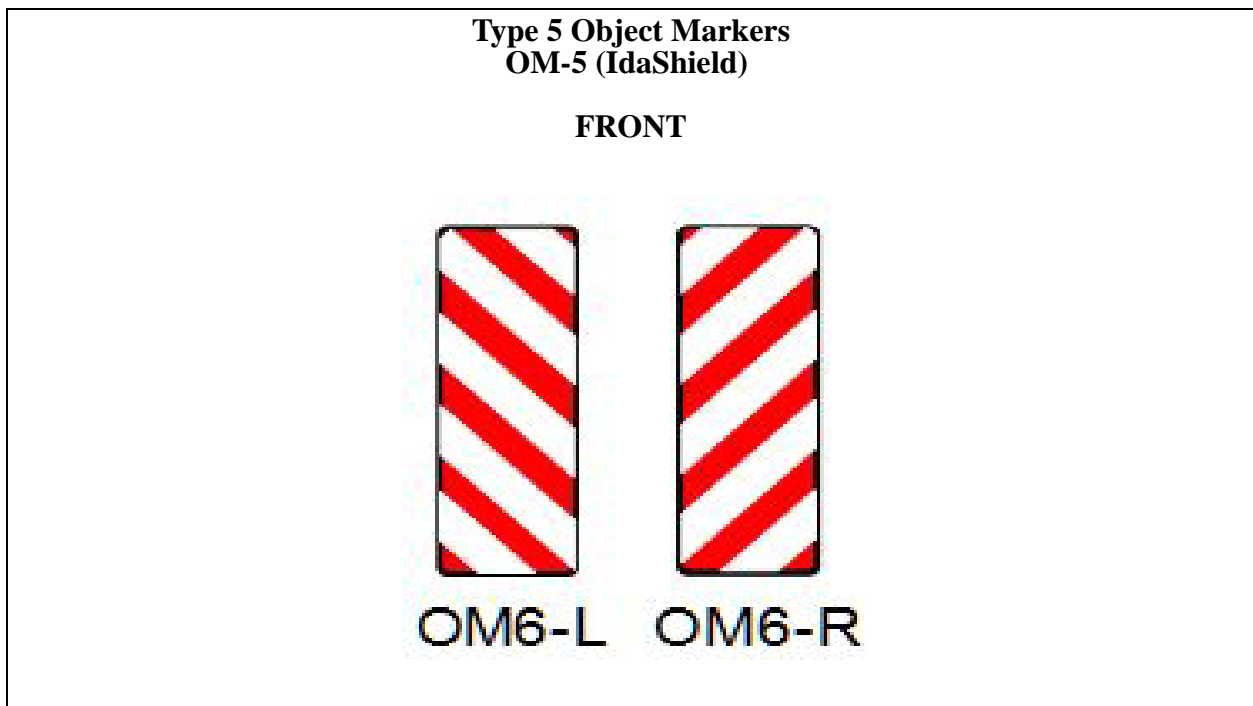
()

c. On page 134 ~~U~~nder “Guidance:” add the following as paragraph 3 to read as follows:

The Type 5 object marker, known in Idaho as OM-5 (IdaShield), ~~shall~~ should be placed below the Highway-Rail Grade or Highway-Light Rail Transit Grade crossing Crossbuck Sign Assembly on the right hand side of the roadway on each approach to a crossing where automatic signal warning devices do not exist. The bottom of the shield should be twenty-four (24) inches above the top of the rail and shall not be more than thirty-six (36) inches above the ground.

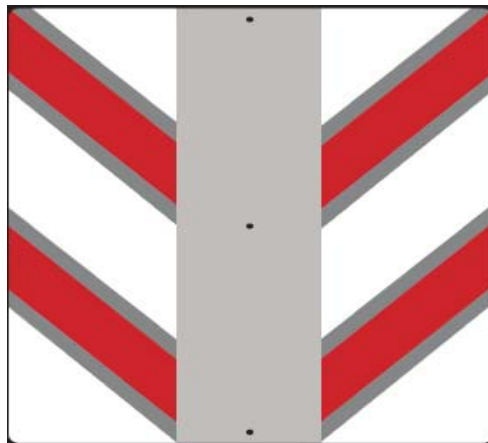
~~(3-29-12)~~()

gd. On page 135, Figure 2C-13, Object Markers - add a Type 5 and Type 6 Object Marker category to the figure which shall include an example of an OM-5 object marker known in Idaho as IdaShield and the OM-6 object marker known as the Idaho Truck Escape Ramp marker:



**Type 5 Object Markers
OM-5 (IdaShield)**

BACK



**Type 6 Object Markers
OM-6 (Truck Escape Ramp)**



OM6-L OM6-R

(3-29-12)

064. Section 2D.43, Street Name Signs (D3-1 or D3-1a).

(3-29-12)

a. On page 162, change the second sentence of the fourteenth paragraph under the Standard statement to read as follows: The color of the legend and border shall contrast with the background color of the sign.” (3-29-12)

b. On page 162, change the fifteenth paragraph under the Option statement to read as follows: The border may not be omitted from a street name sign if used on the State Highway System or related roadways. (3-29-12)

075. Section 2E.31, Interchange Exit Numbering. On page 212, in the fourth sentence under “Standard” revise the sentence to read as follows: “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.” (3-29-12)

086. 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 sign is in place prohibiting a turn on steady circular red signal or a RED ARROW signal indication is displayed, vehicular traffic facing a steady CIRCULAR RED signal indication may turn right or turn left from a one-way or two-way highway into a one-way street, after stopping in conformance with the provisions of the Idaho Vehicle Code.” (3-29-12)

097. Section 4L.03, Warning Beacon. On page 524 - in the second paragraph under “Standard,” add the following as a second sentence to read as follows: “The beacon shall not be included within the border of the sign or marker.” (3-29-12)

108. Figure 5C.1, Horizontal Alignment and Intersection Warning Signs and Plaques and Object Markers on Low-Volume Roads. On page 536, add a Type 5 Object Marker OM-5 (IdaShield) and a Type 6 Object Marker OM-6 (Truck Escape Ramp). (3-29-12)

109. Section 5F.04, STOP and YIELD Signs (R1-1, R1-2). On page 543, delete “and YIELD” from the title and insert the following paragraph as the third paragraph under “Standard”: “Under Idaho law, wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the Department or local authorities, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.” (3-29-12)

120. Table 7B.1, School Area Sign and Plaque Sizes. On page 733, remove S4-2P, “When Children Are Present.” (3-29-12)

131. Figure 7B.1, School Area Signs. On page 735, remove figure S4-2P. (3-29-12)

142. 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 the second paragraph under “Standard” remove the S4-2P and in the third paragraph under “Option” add the following as a fourth sentence to read as follows: “The lenses of the Speed Limit Sign Beacon shall not be positioned within the face of the School Speed Limit (S5-1) sign.” (3-29-12)

153. Section 8A.03, Use of Standard Devices, Systems, and Practices at Highway-LRT Grade Crossings. On page 748, under “Standard” add the following statement as a second sentence to read as follows: “Per Section 49-202(25), Idaho Code, “Wherever a highway crosses

one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the public highway agencies, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.” (3-29-12)

164. Figure 8B.3, Crossbuck Assembly with a YIELD or STOP Sign on a Separate Sign Support (Sheet 1 of 2). Delete figure in its entirety. (3-29-12)

175. Figure 8B.3, Crossbuck Assembly with a YIELD or STOP Sign on a Separate Sign Support (Sheet 2 of 2). Delete “YIELD or” from the title of the figure. Change Note 1 to read as follows: “Per Section 49-202(25), Idaho Code, “Wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the public highway agencies, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.”” (3-29-12)

186. Section 8B.04, Crossbuck Assemblies with YIELD or STOP Signs at Passive Grade Crossings. On pages 754,757 and 758, delete “YIELD or” from the title and modify the Section to read as follows:

Standard:

A grade crossing Crossbuck Assembly shall consist of a Crossbuck (R15-1) sign, and a Number of Tracks (R15-2P) plaque if two (2) or more tracks are present, that complies with the provisions of Section 8B.03, and shall have a STOP (R1-1) sign installed on the same support, as pursuant to the following requirement: “Per Section 49-202(25), Idaho Code, “Wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the public highway agencies, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.””

At all public highway-rail grade crossings that are not equipped with the active traffic control systems that are described in Chapter 8C, except crossings where road users are directed by an authorized person on the ground to not enter the crossing at all times that an approaching train is about to occupy the crossing, a Crossbuck Assembly shall be installed on the right-hand side of the highway on each approach to the highway-rail grade crossing.

If a Crossbuck sign is used on a highway approach to a public highway-LRT grade crossing that is not equipped with the active traffic control systems that are described in Chapter 8C, a Crossbuck Assembly shall be installed on the right-hand side of the highway on each approach to the highway-LRT grade crossing.

Where restricted sight distance or unfavorable highway geometry exists on an approach to a grade crossing that has a Crossbuck Assembly, or where there is a one-way multi-lane approach, an additional Crossbuck Assembly shall be installed on the left-hand side of the highway.

Guidance:

The use of STOP signs at passive grade crossings should be placed in accordance with Idaho law.

Support:

Sections 8A.02 and 8A.03 contain information regarding the responsibilities of the highway agency and the railroad company or LRT agency regarding the selection, design, and operation of traffic control devices placed at grade crossings.

Option:

When a STOP sign is installed for a Crossbuck Assembly at a grade crossing, it may be installed on the same support as the Crossbuck sign or it may be installed on a separate support at a point where the highway vehicle is to stop, or as near to that point as practical, but in either case, the STOP sign is considered to be a part of the Crossbuck Assembly.

Standard:

When a STOP sign is installed on an existing Crossbuck sign support, the minimum height, measured vertically from the bottom of the STOP sign to the top of the curb, or in the absence of curb, measured vertically from the bottom of the STOP sign to the elevation of the near edge of the traveled way, shall be four (4) feet (see Figure 8B-2).

If a Crossbuck Assembly is installed on a new sign support (see Figure 8B-2) or if the STOP sign is installed on a separate support (see Figure 8B-3), the minimum height, measured vertically from the bottom of the STOP sign to the top of the curb, or in the absence of curb, measured vertically from the bottom of the STOP sign to the elevation of the near edge of the traveled way, shall be seven (7) feet if the Crossbuck Assembly is installed in an area where parking or pedestrian movements are likely to occur.

Guidance:

If a STOP sign is installed for a Crossbuck Assembly at a grade crossing on a separate support than the Crossbuck sign (see Figure 8B-3), the STOP sign should be placed at a point where the highway vehicle is to stop, or as near that point as practical, but no closer than fifteen (15) feet measured perpendicular from the nearest rail.

Support:

Certain commercial motor vehicles and school buses are required to stop at all grade crossings in accordance with 49 CFR 392.10.

The meaning of a Crossbuck Assembly that includes a STOP sign is that a road user approaching the grade crossing must come to a full and complete stop not less than fifteen (15) feet short of the nearest rail, and remain stopped while the road user determines if there is rail traffic either occupying the crossing or approaching and in such close proximity to the crossing that the road user must yield the right-of-way to rail traffic. The road user is permitted to proceed when it is safe to cross.

Standard:

A vertical strip of retroreflective white material, not less than two (2) inches in width, shall be used on each Crossbuck support at passive grade crossings for the full length of the back of the support from the Crossbuck sign or Number of Tracks plaque to within two (2) feet above the ground, except as provided in Paragraph 16.

(3-29-12)

197. Section 8B.05, STOP (R1-1) Or YIELD (R1-2) Signs without Crossbuck Signs at Highway-LRT Grade Crossings. On page 758, delete “Or YIELD (R1-2)” from the title and delete the Guidance Statement, retaining the Standard and insert the following paragraph as the first paragraph under Standard: “Per Section 49-202(25), Idaho Code, “Wherever a highway crosses one (1) or more railroads at grade, the Department or local authorities within their respective jurisdictions, shall place and maintain stop signs, directing vehicular traffic approaching the crossing to come to a full stop prior to entering the crossing at all railroad crossings where electric or mechanical warning signals do not exist. Placement of these stop signs shall be mandatory except when, in the determination of the public highway agencies, the existence of stop signs at a given crossing would constitute a greater hazard than their absence, based on a recognized engineering study.”” (3-29-12)

2018. Section 8B.07, EXEMPT Highway-Rail Grade Crossing Plaques (R15-3P, W10-1aP). (3-29-12)

a. On page 759 - add the following paragraph titled as: “Standard: All EXEMPT (R15-3) signs placed at a highway-rail grade crossing, shall require train crews to flag the crossing and stop all vehicular traffic prior to allowing any railroad equipment to enter the crossing. Placement of an EXEMPT (R15-3) sign shall require a written agreement between the railroad company and the agency having jurisdiction over the highway which requires both parties to comply with the proper procedures for placement of EXEMPT signs at Highway-Rail

Grade Crossings. A copy of all agreements shall be forwarded to the Idaho Transportation Department Highway-Rail Safety Coordinator.” (3-29-12)

b. Retain the “Option” statement and modify the “Support” statement on page 760 to read as follows: Support: These supplemental signs inform drivers of vehicles carrying passengers for hire, school buses carrying students, or vehicles carrying hazardous materials that a stop is not required at certain designated highway-rail grade crossings. (5-1-10)

219. **Section 8B.09, DO NOT STOP ON TRACKS Sign (R8-8).** On page 760, change the second paragraph of the Guidance statement to read as follows:

When a STOP sign is installed at a location, including at a circular intersection, that is downstream from the grade crossing such that highway vehicle queues are likely to extend beyond the tracks, a DO NOT STOP ON TRACKS sign (R8-8) should be used.
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(3-29-12)

220. **Section 8B.16, Divided Highway with Light Rail Transit Crossing Signs (R15-7 Series).** On page 762, change the second sentence of the first paragraph of the Option statement to read as follows: The sign shall be mounted separately. (3-29-12)

231. **Section 8B.18, Emergency Notification Sign (I-13).** On page 763, change the second paragraph of the Guidance statement to read as follows: Emergency Notification signs should be oriented so as to face highway vehicles at the grade crossing or on the traveled way near the grade crossing. (3-29-12)

242. **Section 8C.09, Traffic Control Signals at or Near Highway-Rail Grade Crossings.** On page 777, in the fourth paragraph titled “Standard,” replace “if applicable” with “if justified by an engineering study,” at the end of the final sentence in the paragraph. (3-29-12)

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

39.04.02 - RULES GOVERNING MARKING OF HAZARDS TO AIR FLIGHT

DOCKET NO. 39-0402-1201

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2013 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

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

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. This rule has been updated to comply with house Bill 511, as amended, from the 2012 Session. It establishes standards for lighting and marking of guyed towers above 50 feet in height, not regulated by the Federal Aeronautics Administration, to ensure the safety of pilots. The rulemaking also adds definitions for key terms, updates and clarifies existing requirements, and adds new requirements associated with the dimensions, design, color, and lighting of guyed towers along with deadlines for implementation established in the bill. It also identifies exemptions for power poles or structures owned and operated by an electric supplier as defined in Section 61-332A(4), Idaho Code, any structure with the primary purpose of supporting telecommunications equipment, and the military. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 5, 2012 Idaho Administrative Bulletin, [Volume 12-9, pages 200 through 204](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: There is no fiscal impact on the state general fund resulting from this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mike Pape, Aeronautics Division Administrator, 334-8788.

DATED this 29th day of November, 2012.

Linda L. Emry
Idaho Transportation Department
3311 W State St
PO Box 7129, Boise ID 83707-1129
Phone – 208-334-8810 /FAX – 208-332-4107

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

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2012**.

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2012.

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

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

This rule has been updated to comply with house Bill 511, as amended, from the 2012 Session. It establishes standards for lighting and marking of guyed towers above 50 feet in height, not regulated by the Federal Aviation Administration, to ensure the safety of pilots. The rulemaking also adds definitions for key terms, updates and clarifies existing requirements, and adds new requirements associated with the dimensions, design, color, and lighting of guyed towers along with deadlines for implementation established in the bill. It also identifies exemptions for power poles or structures owned and operated by an electric supplier as defined in Section 61-332A(4), Idaho Code, any structure with the primary purpose of supporting telecommunications equipment, and the military.

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

Compliance with House Bill 511, as amended, 2012 Session.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There is no fee or charge imposed or increased in this rulemaking.

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

There is no fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because other than some minor updates, changes to this rule are related to compliance with House Bill 511 from the 2012 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:

There are no materials incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact John DeThomas, Aeronautics Division Administrator, 208-334-8788.

Anyone may submit written comments regarding the proposed rule-making. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2012.

DATED this 3rd day of August, 2012.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 39-0402-1201

000. LEGAL AUTHORITY.

This rule is adopted ~~Under~~ the authority of Section 21-519, ~~Idaho Code, the Idaho Transportation Board adopts this rule.~~ (11-28-90)()

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.04.02 "Rules Governing Marking of Hazards to Air Flight," IDAPA 39, Title 04, Chapter 02. (4-11-06)

02. Scope. This rule establishes the requirements for marking of hazards to air flight through the airspace of and over the state of Idaho in order to protect and ensure the general public safety, and the safety of persons operating, using or traveling in aircraft pursuant to Section 21-515 through 21-517, Idaho Code. (4-11-06)()

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Street and Mailing Address. The Idaho Transportation Department maintains a central office in Boise at 3311 W. State Street with a mailing address of P O Box 7129, Boise, ID 83707-1129. The Division of Aeronautics offices are physically located at 3483 Rickenbacker Street, Boise, ID ~~83707-1129~~. (4-11-06)()

02. Office Hours. Daily office hours are 8 a.m. to 5 p.m. except Saturday, Sunday and state holidays. (4-11-06)

03. Telephone and FAX Numbers. The Aeronautics offices may be contacted during office hours at 208-334-8775 or by fax at 208-334-8789. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. 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. ()

02. Height. The distance measured from the original grade at the base of the tower to the highest point of the tower. ()

03. Temporary or Permanent Guyed Tower. A guyed tower erected and standing for any period of time whatsoever. ()

04. Marking. Shall include illuminating, painting, lighting, or designating in a manner to be approved by the department. ()

011. -- 099. (RESERVED)

100. REQUIREMENTS.

01. Hazardous Structures. Any structure which obstructs the airspace more than two hundred (200) feet above the ground or water level, or at any height near an established airport as defined by Section 21-101(c), Idaho Code, when determined by the ~~Transportation Board or the Aeronautics Division Administrator acting in behalf of the Board,~~ 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 ~~Board~~ Department. (4-11-06)()

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. Such alternating bands shall 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. Such light shall meet the technical requirements of medium intensity flashing white obstruction light systems as specified in Federal Aviation Administration Advisory Circular AC 70/7460-1K. ()

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 shall extend from the anchor point along each guy wire attached to the anchor point. ()

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

g. The provisions of this Subsection 100.02, shall not apply to power poles or structures owned and operated by an electric supplier as defined in Section 61-332A(4), Idaho Code, or any structure, the primary purpose of which, is to support telecommunications equipment. ()

023. 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 *Board Department* to be a hazard to air navigation, shall be marked at two hundred (200) feet intervals of spacing by sphere-type markers having a minimum diameter of thirty-six (36) inches. Said sphere to be of the split-sheet, clamp-on type which are to be alternated in three (3) contrasting solid colors of gloss white, gloss yellow, and international orange and may be constructed of recommended light-weight materials such as fiberglass, aluminum, or foam. ~~(4-11-06)~~()

034. 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 Board Department if such is deemed pertinent to safety and recognition of obstructions. (4-11-06)()

045. Construction. Any construction sponsor is required to submit a notice to the Aeronautics Division Administrator if his construction ~~exceeds~~ meets one (1) or more of the following conditions: (1-2-93)()

a. ~~Greater than two hundred (200) feet in height.~~ If the proposed object ~~would~~ will be more than two hundred (200) feet above ground level at its location. (4-11-06)()

b. ~~Near an established airport or seaplane base.~~ If the proposed object ~~would~~ 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 ~~would exceed~~ will penetrate an imaginary surface that is one (1) foot in height for each one hundred (100) feet (100:1) horizontally from the nearest point of the nearest runway.

* To qualify, an airport as defined in Section 21-101(c), Idaho Code, must be listed in the Idaho Airport Facilities Directory, or in the Airport /Facility Directory published by the US-DOT, National Charting Office or operated by a public entity. (4-11-06)()

c. If the proposed object ~~would~~ 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 ~~would exceed~~ will penetrate an imaginary surface that is one (1) foot in height for each fifty (50) feet (50:1) horizontally from the nearest runway. (11-28-90)()

d. ~~Near a Heliport.~~ If the proposed object ~~would~~ will be within five thousand (5,000) feet of a heliport listed in the "Airport Facilities Directory" or operated by a public entity; and ~~would exceed~~ will penetrate an imaginary surface that is one (1) foot in height for each twenty-five (25) feet (25:1), horizontally from the nearest landing and take-off area of that heliport. (4-11-06)()

e. ~~Highways and Railroads.~~ If the proposed object is a traverse way which ~~would~~ will exceed at least one (1) of the standards listed in Subsections 100.045.a. through 100.045.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. (11-28-90)()

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

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

b. Immediately by telephone or other expeditious means, with written notification submitted within five (5) days thereafter, if immediate construction or alteration is required as in

cases involving public services, health, or safety. (1-2-93))

067. Notice of Proposed Construction. A notice of proposed construction or alteration is required so that the ~~State Transportation Board~~ **Department** may: ~~(11-28-90)~~()

- a. Depict obstructions on aeronautical charts. (11-28-90)
- b. ~~Recommend~~ **Identify** appropriate markings as required by Section 21-515, Idaho Code. ~~(11-28-90)~~()
- c. Be made aware of potential aeronautical hazards in order to minimize their danger to the flying public. (11-28-90)
- d. Protect the lives and property of persons in the air and on the ground. (11-28-90)

078. Submittal of Notice. ~~Written A~~notice ~~must be given in writing~~ of intended construction or alteration ~~must be submitted by mail or hand-delivered~~ to the Aeronautics Division Administrator, ~~3483 Rickenbacker Street, Boise, ID 83705~~ **using the contact information in Section 005 of this rule.** ~~(1-2-93)~~()

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. ()

101. -- 199. (RESERVED)

200. EXCEPTIONS.

No person is required to notify the **Aeronautics** Division Administrator for any of the following construction or alteration: ~~(1-2-93)~~()

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. (1-2-93))

02. Antennas. Any antenna structure of twenty (20) feet or less in height except one that would increase the height of another antenna structure. (11-28-90)

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. ~~(1-2-93)~~()